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## Management Division Hot Issues

**The New EPA Region 6 Laboratory:** The Region 6 Environmental Services Laboratory is located in Houston, Texas. The Environmental Services Laboratory (also called the Houston Laboratory) provides analytical and technical support to all Region 6 statutory programs as well as the Criminal Investigation Division, and State and Tribal entities. This work spans the range of activities from pH analysis to interpreting and defending complex analytical data during federal prosecutions. The Houston Laboratory, as most EPA Regional Laboratories, has the capability and flexibility to respond to a broad array of environmental insults. The Houston Laboratory is in the initial stages of developing expertise to analyze for chemical warfare agents (CWA). This initiative is supported by the Department of Homeland Security.

In addition to analytical support, Houston Laboratory personnel have responsibility for performing certification audits of State Primary Drinking Water Laboratories. Laboratory personnel are also responsible for technical oversight of the Superfund Contract Laboratory Program and approvals for alternative test procedures under the Clean Water Act. All requests for technical assistance coming to the Region are channeled through the Houston Laboratory.

The Houston facility contains approximately 35,000 useable square feet and houses approximately 60 employees and 14 contractors. In addition to Environmental Services Laboratory personnel, the Houston facility houses an EPA inspection team (multimedia) and other program employees (air program; On-scene Coordinators (OSC), and Regional council) giving them easier access to the Gulf Coast and Greater Houston area.

Due to emerging issues regarding homeland security, new technologies and science, the region and the Agency recognize the importance of the Houston Laboratory and have committed to ensuring Region 6 will retain a laboratory to support it.

**Background:** The existing lease on the Houston Laboratory expires May 31, 2010. The General Services Administration (GSA) is in the process of negotiating a new superseding lease for the existing Lab that will allow the Lab to remain operational in our current location through 2012/2013. We are also working with GSA on the relocation and build-to-suit construction of a new laboratory facility containing between 46,000 and 48,000 useable square feet to replace the existing one as the lease expires. The Program of Requirements for the new laboratory is currently under review and we anticipate being able to provide to GSA in September 2009 for incorporation into anticipated Congressional submission for approval in the October/November 2009 timeframe. The typical timeframe for Congressional approval is approximately one year from the date of submission and acceptance. Other required elements of the acquisition process

for a new build-to-suit facility will run parallel to the Congressional approval process.

**Significant Issues:** Negotiation and award of the new superseding lease that GSA will be placing is scheduled to coincide with the existing May, 2010 lease expiration date, however, we anticipate the negotiation to be complicated. Additional funding for the increased rental cost per square foot will be budgeted for and paid monthly by Headquarters. Regional funding will not be impacted by this process. The joint development of a solicitation for offers (SFO) package for the new build-to-suit laboratory will consume the majority of time over the next year while we wait to receive Congressional approval. Budget projections for furniture, IT/Telecon cabling and equipment requirements are a Regional responsibility. These projections should be developed as soon as possible in order for a phased approach (over the next several years) for obtaining required funding can be implemented and monies can be provided to GSA for the project.

**Current Status & Next Steps:**

*Existing lease:* GSA has provided existing Lessor with the SFO and will allow two weeks for review before negotiations begin to determine and agree upon a fair and reasonable increase per square foot. Process to be completed by May 2010.

*Build-to Suit Prospectus lease:* Final program of requirements to be provided by EPA to GSA in September 2009. GSA will submit for Congressional approval in October 2009. Discussions and the development of funding requirements for new facility will be needed in 2010.

**Operating Budget Shortfall:** Recent budget reports for the Agency in the upcoming years have been positive as for as overall funding for the Agency. However, the only increases are in the dollars the Agency will pass on to States and Tribes through grants and contracts. In recent years, offices have not been receiving full payroll funding for allocated full time employee (FTE), a reported 15% or higher decrease to travel dollars in FY2011, and for the last decade all regional offices have been dealing with declining operating budgets and rising costs for goods and services that support the workforce.

In 2009, our Divisions had to contribute over \$900K in program dollars to our Workforce Support Account (WSA) and the Working Capital Fund (WCF). This large deficit in our operating budget was the result of guidelines by OCFO to use payroll dollars exclusively for payroll and thereby not being able to realign payroll dollars to the RSA and WCF.

Therefore, the Agency in these challenging financial times is looking for efficiencies and opportunities to better align our resources with current and emerging priorities. Each office and region is currently working through an exercise whereby mid-October they will be able to identify some efficiencies and

alignment of resources. Our Administrator has stated that she is determined to manage change in such a way as to protect on-board personnel.

**Background:** The Region's operating budget is funded out of the Workforce Support Account (WSA) and the Working Capital Fund (WCF). The WSA funds "housekeeping" items and services such as health & safety, IT equipment & contractors, training, phones, filerooms, equipment, supplies and maintenance agreements. The WCF funds services related to desktop connectivity, email, telecommunications, mainframe services and postage.

Although you will hear about increased budgets for EPA, the increases have been targeted for non-operational activities. Most recently, increases have been in our contract and grants areas for money going out to our States and Tribes. However, the operating budget in the regions peaked back in the nineties and has decreased by at least 15% since FY2000. This has all occurred at the same time that the Regions have seen rising fixed costs, inflation on service agreements and new unfunded expenses such as being Americans with Disability Act (ADA) compliant and going green. Region 6 has dealt with our declining operating budget by trying to reduce services where possible, moving a few programmatic expenses to the divisions (i.e GIS), using carryover funds and mainly lapsing payroll dollars to cover the RSA and WCF shortfalls.

**Significant Issues & Interested Parties:** The Agency has had to take cost cutting measures in recent years in order to meet payroll at the Agency level. This has resulted in the Regions being penalized for moving funds out of payroll and is to the point of the Office of Chief Financial Officer (OCFO) policy requiring payroll to be used for payroll only related expenses and not used elsewhere. Headquarters has reduced current year payroll allocations by the amount of carryover funds from the previous year and added a penalty for any vacancies during the first part of each fiscal year. These new payroll rules have changed the way we can deal with our RSA and WCF shortfalls. As this negatively impacts the amount of funding available for operating expenses, it potentially will affect all regional employees and is therefore a major concern for the Senior Staff in Region 6.

**Current Status & Next Steps:** In 2009 the Region anticipates spending about \$7.6M in WSA and \$3.3M in WCF with a \$900K deficit. The deficit was made up by the regional program offices contributing the shortfall amount from their program dollars. We expect the shortfall issue to be a continuing problem with an even larger deficit in FY2010. The Management Division has already begun exploring a few areas where our yearly expenses in the WCF or WSA can be reduced.

**American Recovery and Reinvestment Act (Recovery Act):** The Recovery Act included \$7.22 billion for projects and programs administered by EPA. Region 6 is handling approximately \$645,017,698 of that funding. Specifically, Region 6 has responsibility under the Recovery Act for the Superfund Hazardous Waste Clean-Up Program, Brownfields Program, Diesel Emissions Reduction Program (DERA), Leaking Underground Storage Tanks Program (LUST), Clean Water State Revolving Fund (CWSRF), Drinking Water State Revolving Fund (DWSRF), and 604(b) Water Quality Management Planning Program. Region 6 has awarded approximately 99.2 % of the funding received. We are working with unprecedented transparency and efficiency, and have awarded funds to States and competitive grants as quickly as possible while assuring the proper decision-making in our process. The next step in our process is to monitor how the recipients are spending the money and to ensure proper management and oversight of the funds.

**Background:** On February 17, 2009, President Obama signed the Recovery Act. The Recovery Act seeks in part to spur technological advances in science and health and to invest in environmental protection and other infrastructure that will provide long-term economic benefits. On a national level, EPA manages approximately \$7.22 billion in projects and programs that will help achieve these goals, offers resources to help other agencies “green” a much larger set of Recovery Act investments, and administers environmental laws that will govern Recovery activities. The Recovery Act provides funding for significant projects that will help clean our environment, and provide better environmental and public health protection to our citizens. EPA programs that are receiving Recovery Act funding are the following:

*Brownfields:* \$100 million for funding that will help community groups to evaluate and clean up former industrial and commercial sites. EPA will award brownfields assessment, cleanup, new and supplemental Revolving Loan Fund (RLF) and job training cooperative agreements through a competitive process and will provide technical assistance and training to brownfield communities via regional contracts and Interagency Agreements.

*Diesel Emissions Reductions:* \$300 million for grants that will help regional, state and local governments, tribal agencies, and non-profit organizations with projects that reduce diesel emissions.

*Clean Water Projects:* \$4 billion for the Clean Water State Revolving Fund (CWSRF) and \$2 billion for the Drinking Water State Revolving Fund (DWSRF) for assistance to States and local governments with water quality and wastewater infrastructure needs and drinking water infrastructure needs. A portion of the funding must be targeted toward green infrastructure, water and energy efficiency, and environmentally innovative projects.

*Superfund Hazardous Waste Cleanup:* \$600 million to cleanup targeted hazardous sites. *Underground Storage Tanks:* \$200 million for the cleanup of petroleum leaks from underground storage tanks. The money may be used

either to oversee assessing and cleaning up underground tank leaks, or pay for assessing and cleaning up leaks from federally regulated tanks where the responsible party is unknown, unwilling, unable, or the cleanup is an emergency response. The EPA's Recovery Act website (<http://www.epa.gov/recovery/>) provides further information about environmental projects administered by EPA.

***Significant Issues & Interested Parties:*** At this time, we do not face any significant issues. However, the next step in our process is to monitor how the recipients are spending the money and to ensure proper reporting, management and oversight of funds. We anticipate that issues will arise in this context once these processes get underway.

EPA's Senior Accountable Official for the Recovery Act is Craig Hooks, Assistant Administrator of Office of Administration and Resource Management. He represents EPA at meetings convened by the White House, the Office of Management and Budget and other government entities; attends EPA's Stimulus Steering Committee meetings; reviews EPA's Recovery Act activities, communication, and reporting information; and sets the implementation vision for the Agency. EPA has an executive-level Stimulus Steering Committee that meets weekly to review implementation, monitor progress, and resolve issues brought by its eight subcommittees. Members of the Steering Committee include Deputy Regional Administrators and Deputy Assistant Administrators. The eight subcommittees consist of: Communications and Outreach, Congressional Coordination, Contracts, Finance and Resources, Grants and Interagency Agreements, Interagency Issues, Performance Measurements, and Reporting and Tracking.

Region 6 participates in the majority of the subcommittees to ensure we are informed of current Recovery Act activities and policies. Region 6 has also formed its own committee, comprised of division directors and key staff, to ensure Recovery Act requirements are being fully implemented in a timely and efficient manner. Region 6 has appointed a Recovery Act Coordinator to monitor all Recovery Act efforts and report to Senior Staff on any issues and developments.

***Current Status & Next Steps:*** We have awarded 99.2 % of the awards. Our focus is now on oversight, reporting, and monitoring of the funds. We will need continued support to work on several key areas: 1512 Recipient Reporting, Buy American, Davis Bacon, and Inspector General Investigations, as detailed below.

**1512 Recipient Reporting:** Section 1512 of the Recovery Act requires recipients of Recovery Act funds to report information on projects and activities. EPA will have to conduct a limited review of recipient reported information. EPA is developing a procedure to document the procedures, requirements and responsibilities for review of Recovery Act information submitted to EPA by recipients of Recovery Act resources. We are working with our programs, Headquarters and States on these requirements.

**Inspector General Investigations:** All funding will be monitored by the Agency's Inspector General, which received \$20 million to conduct audits, investigations, and other reviews to prevent and detect fraud, waste, and abuse. We are working with Headquarters and the Office of Inspector General on several preliminary discussions and investigations. Buy American: Section 1605 of the ARRA requires that no appropriated funds be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project is produced in the United States unless a waiver is provided to the recipient by EPA. A March 31, 2009 Delegation of Authority Memorandum provides that Regional Administrators are with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. The region has been and will continue to work on waiver requests when received with the Regional Administrator.

**Davis Bacon:** Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. The region continues to work on issues that arise from recipients of grants, cooperative agreements and loans concerning the application of Davis Bacon requirements.

**Overview of the Lead Region System and the Region 6 Role for FY09-10:** Overview of the Lead Region System: The Lead Region system is part of a communication mechanism to ensure the quality of Agency decisions by providing an organized, consistent and effective regional role in all the major phases of Agency policy, regulatory and resource decision-making. The system provides an opportunity to identify and synthesize the concerns of all 10 regions into a "Regional view." The Lead Region system has 12 Lead Region Coordinators nationwide working with the various National Program Managers (NPMs) and the respective programs in the regions.

**Background:** All NPMs and other offices have Lead Regions and Lead Region Coordinators with a rotation of assignments every two years. For example the Lead Region for OW, currently in Region 3, will rotate to Region 6 for FY 2011-2012. Regional Administrators (RA) and Deputy Regional Administrators (DRA) provide their preferences every two years for consideration on this rotation. For Region 6, we currently have Lead Region responsibilities for the Office of Prevention, Pesticides & Toxic Substances (OPPTS) and for Regional Science and Technology/the Office of Research and Development (ORD). Three key responsibilities of the Lead Region:

Planning- assist in the development of priorities, budgets and programs

Coordination- meetings and conferences, intranet web page, information bulletins



Control – assist with obtaining feedback, allocation formulas

Programmatic- assist in improving programmatic functions with information on new technologies, etc.

**OPPTS Lead Region System:** For the OPPTS programs in Region 6, the Multi-Media and Planning and Permit Division (6PD) in Region 6 covers the Toxics and Pesticides and the Compliance Assurance and Enforcement Division (6EN) covers the pollution prevention. However, all the Regions are organized differently. The OPPTS Lead Region system currently has 10 sub-leads on specialized topics that are located in different regions. There is also a Budget Workgroup which consists of all the Regional Division Directors. It is structured this way to ensure that we achieve corporate decisions/discussions on tough decisions. Region 6 has also developed the Lead Region intranet site (<http://region6.epa.gov/intranet/6pd/oppts/index.htm>) which includes:

Each Regions' organization chart for OPPTS programs and a business plan

Past meetings including agendas, presentations, and a chart capturing decisions and/or next steps

Upcoming meetings

Other helpful links to the Chief Financial officers planning and budget cycles

***Significant Upcoming Events and Current Issues:*** OPPTS Regional Division Directors' Meeting, Oct 27-28th, 2009 in Bethesda, MD. New ruling for pesticides under the Worker Protection Safety rule. National Pollutant Discharge Elimination System (NPDES) and pesticide application: National Cotton Council 6th Circuit Court Decision. This determination would require NPDES permits for pesticide application. Implementation of the Renovation, Repair, and Painting rule is expected to take a larger share of the Lead (Pb) program's resources by FY10 as applicators are accredited. The new Pollution Prevention Strategy will begin implementation in FY10. Planning and development of the FY2011 budget, and performance and accountability planning. OPPTS programs are not delegated to States/Tribes.

### **Regional Science and Technology (RS&T) Lead Region System:**

Six EPA regions have RS&T Divisions- Regions 1, 2, 3, 4, 7, and 10. The Management Divisions in the other regions took on the responsibility of the regional laboratories and field activities were scattered among the region's media programs. Since there is no NPM for this important group, the lead region plays an important advocacy role to ensure that the RS&T message is heard. By providing the appropriate scientific expertise to assess and manage risks to human health and ecosystems, Regional Science and Technology organizations apply sound science and offer innovative solutions to address environmental challenges facing our country.

***Significant Upcoming Events and Current Issues:*** RS&T Regional Division Directors' Meeting, December 8-9, in Lakewood, CO; Field Operations audits and gap analyses; Lab efficiencies; Monitoring- budgets and new technologies; Regional Applied Research Efforts (RARE), Regional Methods (RM)-two ORD programs that provide monies for research of regional interest. Regional recommendations are due in December 2009.

### **Office of Research and Development (ORD) Lead Region**

**System:** This lead region function is not the typical Headquarters and Regional partnership. We do not involve ourselves in the day-to-day ORD activities, but voice the regional opinion on ORD products and services in order to improve their value to the EPA regional community. Currently we are working with ORD on their transformation into an integrated multi-disciplinary research organization to ensure that the regional research priorities are not lost.

## Office of Environmental Justice and Tribal Affairs Hot Issues

**Calumet Lubricants Refinery, Shreveport, Louisiana:** Residential neighbors adjacent to the Shreveport, Louisiana Calumet Lubricants Refinery fence line have lodged numerous complaints with the EPA Region 6 office regarding Calumet operations. Community organizations are requesting additional EPA oversight into Calumet's operational practices, excessive flaring, emissions, questionable emergency procedures, and communication with the community.

**Background:** In 2007, EPA awarded an Environmental Justice Collaborative Problem Solving grant designed to reduce residents' exposure to toxic air emission from industrial facilities.

**Significant Issues & Interested Parties:** The community residents are concerned that pollutants are adversely impacting their health. In addition, in response to numerous upset/shutdown/start-up events at the facility in 2009 alone, residents increased their demands for greater EPA oversight and involvement. The residents question the validity of sampling and incident report data collected by LDEQ. In July 2009, EPA began a 6-month pilot project to collect volatile organic compounds (VOC) samples.

EPA recently fined Calumet for Clean Air Act (CAA) violations; EPA conducted an inspection in November 2008, and a drill and exercise to determine adequacy of the Facility Response Plan. The facility was required to correct deficiencies.

**Current Status & Next Steps:** EPA Region 6 continues to conduct the VOC monitoring project which is expected to conclude in late 2009. The first meeting between Calumet and residents is scheduled for September 10, 2009.

**Port Arthur, Texas Air Emissions:** The Port Arthur community believes EPA should do a better job policing and enforcing CAA to limit facility "upsets and malfunctions" and require best available control technologies. The community would like a cumulative impact study conducted.

**Background:** 54% of the nation's ethylene productions capacity (15.6m tons per year) is in the Houston/Galveston/Port Arthur area. The Port Arthur area is approximately 97% minority.

**Significant Issues & Interested Parties:** EPA's National Refinery Initiative requires a facility under a Consent Decree to submit, for EPA review and response, a root cause analysis report when acid gas and hydrocarbon gas are flared. Facilities located in environmentally sensitive non-attainment areas such as Port Arthur are heavily targeted for compliance. Texas intends to require that emissions due

to start up/shut down and maintenance eventually be incorporated into permits. EPA supports this approach if the permits appropriately insure that best available control technology is applied and that impacts from these emissions are addressed.

*Current Status & Next Steps:* Over \$400,000 of stipulated penalties were issued by the Region last year. The Region will continue to review and monitor emission events in the Port Arthur area. EPA agrees that emissions from upsets and malfunctions are a continuing issue and should remain an area of focus. EPA is working with Texas to make sure the State's air quality rules are clear that emissions during upsets and malfunctions are violations.

### **Transport and Incineration of VX Hydrolysate Waste (April 2007-mid 2008) and Secondary Material (ongoing) to the Port Arthur**

**Veolia Facility:** Environmental Justice and environmental organizations asked EPA to consider the existing pollution burden and disproportionate impacts posed by the proposed rule change to allow incineration of VX hydrolysate in the Port Arthur community. In addition, groups are requesting that EPA conduct a cumulative impact assessment.

**Background:** Community and non-governmental organizations raise concerns regarding the shipment of a nerve agent called VX hydrolysate shipped by the United States Army from its Newport Chemical Weapons Depot in Indiana to the Veolia ES incineration facility at Port Arthur, Texas. Port Arthur is 97% minority.

**Significant Issues & Interested Parties:** On February 28, 2008, EPA Assistant Administrator for the Office of Solid Waste and Emergency Response signed the Polychlorinated Biphenyls: Manufacturing (Import) Exemption for Veolia ES Technical Solutions, L.L.C. proposal. This proposed exemption would allow Veolia ES Technical Solutions to safely import and dispose of PCBs from Mexico at its facility in Port Arthur, Texas, thereby reducing the risk of improper disposal and the release of PCBs into the environment. The Agency held an informal public hearing on this import exemption on June 19, 2008. On September 2, 2008, EPA sent questions and answers on hearing presentations and exhibits to the appropriate hearing presenters. Community and environmental groups allege that the amount of toxic waste from the incinerator facility (Veolia) is higher than what is being reported and emissions in the Port Arthur area in general is higher because of under reporting.

Environmental Justice issues cited by Community-In-Power Development Association and other community organizations focus on cumulative and disproportionate impacts, and request a cumulative impact assessment prior to an EPA decision on rule exemption.

**Current Status & Next Steps:** Now that the question and answer process was completed, the final comment period is open for 30 days until September 18, 2009.

**Corpus Christi, Texas:** Preliminary results of a recent Nueces County health study conducted by Texas A&M University indicated elevated benzene levels in human study participants. The study investigated benzene levels found in blood and urine in 96 individuals living in the Hillcrest community. The Hillcrest community is one of several EJ communities along refinery row. Approximately 95% of residents in the refinery row area are minority.

**Background:** Texas A&M continues its efforts to complete the study although the principal investigator in charge of the project passed away recently. The Centers for Disease Control (CDC), Nueces County Health Department and Texas Commission on Environmental Quality have initiated steps to verify the Texas A&M preliminary findings.

Through correspondence to Administrator Lisa Jackson, Citizens for Environmental Justice (CFEJ) and other environmental organizations have voiced strong opposition to government studies, instead asking that EPA and others delay any additional studies until Texas A&M has completed its work.

**Current Status & Next Steps:** In an August 12, 2009 letter to CFEJ and others, EPA indicated that it will continue to support efforts by CDC and Texas to fully evaluate preliminary findings presented in the Texas A&M study. EPA believes this effort will assist in better understanding the environmental and potential health issues in the Corpus Christi area. EPA has committed to meet with CFEJ and others in the near future.

### **Manchester Community EJ Petition and Exposure Study:**

Manchester located in southeastern Houston, Texas, is approximately 95% minority, 41% low income, and located in close proximity to the Houston Ship channel and many other refineries and chemical plants.

Residents filed an EJ petition with EPA Region 6 in December 2007. Spearheaded by Citizen's League for Environmental Action Now (CLEAN) and Texas Environmental Justice Advocacy Services (T.e.j.a.s.), the petition is an effort to begin a collaborative process to address the pollution problems impacting the community.

**Background:** The Houston Ship Channel is home to the largest concentration of petrochemical operations in the United States. Each year, vessels release 273,000 tons of nitrogen oxides into the air. Nearby industrial facilities emit about 13 known carcinogens based on data from the state's toxic release inventory.

Cesar E. Chavez High school is located approximately ¼ mile from three industrial facilities. Residents express concerns about chemical emission impacts and the potential for accidental releases.

**Significant Issues & Interested Parties:** Residents cite air pollution and impacts on health among their chief concerns. T.e.j.a.s. and residents are currently participating in an exposure study conducted by Texas A & M University.

**Current Status & Next Steps:** Residents indicate they will initiate a request for a health assessment to the Agency for Toxic Substances and Disease Registry (ATSDR.) EPA will continue efforts to address community concerns via regulatory, voluntary programs and partnership efforts.

**Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2006:** In 2005, Oklahoma Senator James Inhofe, Oklahoma, inserted a rider into the joint committee transportation bill that was enacted into law as Section 10211 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2006 (SAFETEA).

**Background:** The SAFETEA legislation has two main provisions. The first provision would allow the state of Oklahoma to extend its federally delegated environmental programs into Indian country. The second provision pertains to the delegation of regulatory programs, Tribes in Oklahoma must obtain the state's agreement to them seeking treatment as state (TAS), successfully negotiate a cooperative agreement and secure the Governor's approval/execution of that cooperative agreement, and since the SAFETEA rider no Tribes in Oklahoma have secured cooperative agreements or applied for TAS for a regulatory program.

**Significant Issues & Interested Parties:** Affected parties include all 66 Tribes in Oklahoma and the State of Oklahoma.

**Current Status & Next Steps:** EPA Region 6 is currently awaiting a Cooperative Agreement between the State and a Tribe or an application for Regulatory TAS by a Tribe in Oklahoma.

**Regional Tribal Operation Committee (RTOC) and Tribal Environmental Summit:** RTOC meetings are conducted three times a year. Members of the elected Tribal Caucus and EPA Region 6 Executive Staff will discuss environmental issues. The Tribal Environmental Summit, held annually, marks the 13th anniversary this year. The RTOC and Summit provide opportunities for members of the elected Tribal Caucus, EPA senior managers, and staff to discuss environmental issues.

**Background:** Tribal leaders expressed a desire to establish a Regional Tribal Operations Committee (RTOC) to serve as a liaison between the Tribal Operations Committee, the Tribes, and Region 6 on national policy issues and to articulate tribal concerns to the Senior Managers and staff regarding regional issues.

**Interested Parties:** EPA membership is comprised of the Regional Administrator, who also serves as the Co-Chair, and each Division Director. Tribal membership is comprised of tribal leaders, or their designated alternate, and is determined by geographical area. The Tribal RTOC members will total 17, (a majority of 9 tribal members are needed to constitute a quorum).

**Current Status & Next Steps:** The next RTOC/Summit is scheduled for December 1-2, 2009 in the Albuquerque, New Mexico area. The Tribal Caucus will meet all day on December 1 and the Full Caucus will meet December 2 from 9:00 am to Noon. Tribal leaders and staff from all 66 Federally Recognized Tribes within the Region will be invited.

## Multi-Media Planning and Permitting Division

### Nationally Significant Issues

**Texas Air Permitting Program:** EPA Region 6 has worked in recent months with EPA HQ offices to develop a comprehensive strategy to address Texas air permitting program deficiencies. The strategy has been shared with Administrator Jackson and EPA has established a priority to restore a federally-enforceable air permitting program in Texas. This strategy was triggered by industry litigation where EPA recently entered into a consent decree/settlement agreement to act on approximately 30 long-pending permit program related Texas State Implementation Plan (SIP) submittals. It has now become apparent that the SIP submittals do not meet federal requirements and Texas has issued hundreds of permits to industry under these rules without having EPA approval of their proposed SIP provisions. The Region began to communicate our concerns about these SIPs prior to the industry litigation to state policymakers, and Region 6 Enforcement issued "fair notice letters" warning some major sources that they may be in violation of the federal New Source Review permit program.

**Current Status & Next Steps:** EPA has proposed a limited approval/limited disapproval of Texas public participation provisions, partial approval/partial disapproval of Texas Qualified Facilities rules, disapproval of Texas Flexible Permit rules and their NSR Reform rules. Under the consent decree/settlement agreement, final action on these SIP submittals must be taken by November 30, 2009 (Public Participation), March 31, 2010 (Qualified Facilities), June 30, 2010 (Flexible Permit), and August 31, 2010 (New Source Review), respectively. The Region will continue to work with EPA HQ offices to implement the jointly developed comprehensive strategy which will include acting on other SIP actions that are part of the consent decree/settlement agreement. We will also utilize other options under the Clean Air Act identified in the comprehensive strategy as necessary to compel Texas to address the deficiencies in their permitting program. Jeff Robinson, 214-665-6435

**Community Air Toxics:** Air toxics, such as benzene and butadiene, are a serious concern of the Agency and Region 6, having had extensive congressional and media coverage, especially around schools. Region 6 has focused particular attention to air toxics, such as the EPA School Air Toxics monitoring initiative and Region 6 responses to air toxics concerns in areas like Shreveport, Houston and Corpus Christi. The goal of the Region 6 air toxics program is to identify air toxics threats in the Region, particularly in at risk areas such as schools and vulnerable communities; to conduct air toxics monitoring at the threats; to identify potential health problems; and to work with communities, school leaders, and the States to mitigate those problems.



**Background:** States are the primary implementing agencies for ambient air quality with delegated the authority to implement most Federal air quality regulations in lieu of EPA. The Agency encourages State agencies to voluntarily monitor for and address air toxics issues in communities. As a voluntary effort, State agencies have flexibility whether to and how to conduct air toxics monitoring and in addressing concerns about ambient levels of air toxics.

**Current Status / Next Steps / Interested Parties:** On March 31, 2009, EPA released a list of priority schools for air quality monitoring, as part of an initiative to understand whether outdoor toxic air pollution poses health concerns to school children. The monitoring will take place at 63 schools in 22 States across the country. Region 6, with the support of the States, will be conducting air quality monitoring at the following six listed EPA school air toxics monitoring sites (7 school s) in Texas and one in Louisiana.

**Houston Ozone and Particulate Issues:** The Houston area has the most serious air pollution problem in Texas and one of the most serious in the Nation. Although ozone air quality has improved, in 2008 the State of Texas recommended and EPA approved an elevation of the degree of Houston's ozone air quality from a serious to a severe threat. Houston also has elevated particulate matter (PM<sub>2.5</sub> means particulate matter that is 2.5 microns or millimeters or less).

**Background:** The implementation of the 2000 1-hour ozone plan brought about major improvements in ozone levels. Nonetheless, the Houston area is the only area in the Region that does not meet the old 1 hour ozone standard. Because of the challenging nature of the problem, the State asked that the area be classified as severe under the 1997 84 ppb Standard. This allowed the area until 2019 to come into attainment. Texas is currently developing a plan to meet this goal. We expect the draft plan to be formally proposed for public comment on September 23, 2009. Texas expects to submit the plan in March 2010. Recent improvements in air quality indicate the area may be able to meet the Standard much sooner than 2010. In fact as of August 25, the design value in Houston was only 84 ppb.

The area also faces elevated PM<sub>2.5</sub> levels. One monitor in particular has been registering since 2007 levels above the annual standard. This monitor (Clinton Drive monitor), is located very close to the Port's bulk cargo loading area. Windblown dust from the port area and nearby roads seems to be the reason this monitor measures slightly higher levels than other monitors in the area. The Port and City have taken actions to reduce dust levels. These actions appear to be effective in reducing the PM levels but the area has yet to collect the three years of data to demonstrate that it is meeting the Standard. The administrator intends to start the process of designating the area nonattainment.

**Significant Issues & Interested Parties:** Environmental groups are very interested in having the area classified as nonattainment under the PM standard.

They argue that this would result in more facets of PM problem being addressed in addition to the windblown dust. Texas has flagged a number of days as “exceptional events.” EPA is reviewing the flags. If approved, the data from these days could be discounted and the area may be in attainment.

**Current Status & Next Steps:** The Region will review the draft ozone plan and provide comments to Texas during their comment period. We will be looking to insure that any plan will provide for attainment as expeditiously as practicable. The Region will also complete the review of the flagged PM data.

**Waste Control Specialist (WCS), Andrews, Texas, Disposal of Polychlorinated Biphenyl Contaminated Sludge:** Waste Control Specialists (WCS) is a Texas permitted RCRA hazardous waste landfill disposal facility which is also approved by EPA Region 6 to dispose of polychlorinated biphenyl (PCB) contaminated electrical equipment and contaminated soils pursuant to 40 C.F.R. 761 of the Toxic Substances Control Act (TSCA). The landfill is located in West Texas next to the New Mexico border.

WCS was selected by General Electric (GE) as its contractor to dispose of Hudson River dredging sediments under an EPA Region 2 Superfund project (Hudson River Site, Fort Edwards, NY) approved in 2002 that requires GE to remediate some of the high PCB concentration river bottom sediments caused by historic effluents from a GE transformer manufacturing plant. Phase 1 of the dredging will last one year, during 2009. Phase 2, if approved, may last up to five years.

The river bottom sediments are being loaded onto trains consisting of 81 dedicated gondola cars that contain DOT approved waste-enveloping liners known as Super Load Wrappers (SLW) that have been filled with sediment and then closed and secured for shipment to WCS to protect them from the elements in transit. Once at WCS, they are processed through a specially constructed enclosed rail car unloading building where the SLWs are opened and emptied by a backhoe into trucks that take the PCB sediments to the landfill area for disposal.

**Significant Issues & Interested Parties:** The rail car unloading procedure was inspected by EPA Region 6 staff in July 2009, and was found to be inconsistent with TSCA PCB regulations because some of the sediment material was being spilled into the rail cars during unloading while the final car cleanup activities were not removing all of the spilled materials before being scheduled for shipment back to GE in New York. Spilled materials into the gondola cars makes the cars a PCB “container” under the regulations which must be properly decontaminated before leaving WCS, or protected from contaminating the environment on its trip back for reloading by tarping the cars and plugging the gondola car drain holes.

There are a few citizens in the area of WCS who are concerned with the disposal of this waste at WCS and there has been concern expressed from communities along the transportation route of the trains.

**Status & Next Steps:** WCS has been working on an improved unloading procedure to prevent the sediments from coming into contact with the gondola cars, and has requested Region 6 approval of an alternate decontamination method pursuant to 40 C.F.R. 761.79(h). This rule allows a facility to propose an alternate method of decontamination for EPA approval provided it accomplishes the same environmental protections. The proposal was dated August 21, 2009, and is under review for approval.

## **Regionally Significant Issues**

**Children's Environmental Health:** The Children's Environmental Health (CEH) Program was established to protect children as a vulnerable population. Children may be more vulnerable to environmental exposures than adults because: their bodily systems are still developing, they eat more, drink more, and breathe more in proportion to their body size, and their behavior can expose them more to chemicals and organisms. Program staff provides technical assistance through grants, coordinates outreach events, develops partnerships, and provides information to both internal and external stakeholders.

**Background:** With no allocated budget, the Region produces some excellent work leveraging other program budgets and by competing for internal funding opportunities. The CEH program strategy is based on the precautionary principle of public health. Efforts are cross media, although many of the initiatives are led by staff within the Toxics Section--lead poison prevention, asthma, indoor environments. In addition, the CEH Coordinator works with Region 6 staff and Headquarters on other efforts such as synthetic turf issues, pesticides, water quality, and other toxic and chemical issues.

**Significant Issues & Interested Parties:** The current administration was briefed in April 2009, and presented with the new the Region 6 Program Strategy for CEH. The strategy establishes goals and measures that align with national measures. Some of these include training families of children with asthma, health care providers, and implementing the IAQ Tools for Schools program. Goals are met primarily through grants provided to universities and NGOs throughout the Region. In addition, staff works to include CEH messages by bundling with existing efforts and supports partnerships with several States to provide trainings and workshops, host outreach events, and provide subject matter expert speakers.

In FY2009, Region 6 was awarded \$25K as part of an internal funding competition. The Region trained 100 health care providers in partnership with the University of Arkansas Medical Branch and the Southwest Center for Pediatric Environmental Health.

**Current Status & Next Steps:** Nationally, the Office of Children's Health Protection has outlined a new 5-point agenda, which includes: (1) regulatory and policy development; (2) chemical management and TSCA reform; (3) focus on underserved communities and Tribes; (4) research and science policy, and; (5) children's measures in the Agency strategic plan. Planning is underway to coordinate this agenda with Regional Coordinators in an upcoming national meeting.

Regionally, plans are underway for 2010 to explore a Schools Chemical Cleanout partnership with Department of Defense facilities, and a potential broad-based CEH geographic initiative for Southern Dallas County.

**Soil Vapor Intrusion Pathway:** In May/June of 2008, Region 6 conducted a Vapor Intrusion Study to determine if certain types of contaminants (primarily chlorinated solvents) in groundwater have impacted the soil gas and indoor air. The study was proposed because there was limited data concerning how hazardous waste contaminants in groundwater affected indoor air quality from sites within Region 6. The study utilized state-of-the-art technology with the Trace Atmospheric Gas Analyzer (TAGA) mobile laboratory to assist with the selection of indoor air sampling locations as well as screening in indoor crawl spaces. The TAGA was also used during the indoor air sampling to rule out potential lifestyle interferences prior to starting the collection of an indoor air sample. The four sites included: two neighborhoods around the former Kelly AFB in San Antonio, Texas; the Clinic at the former England AFB in Alexandria, Louisiana; a neighborhood around the Delfasco Forge facility in Grand Prairie, Texas, and the Parker Solvents site in Little Rock, Arkansas.

## **Results:**

**Kelly AFB:** Samples were collected at 20 homes. None of crawl space results were above our screening levels, however results from several of the sub-slab samples indicated there was a potential for an indoor air issue. Because of the elevated sub-slab values and discussions with local community members we agreed to resample the homes during the winter months, February 2009, to verify there were no seasonal variations. The potential exists for an indoor air pathway from groundwater contamination for at least some types of slab on grade homes. The indoor air results were very low and no mitigation was required based upon the results of this study.

**Delfasco Forge:** Samples were collected from both sub-slab and crawl space locations at 16 homes and 2 commercial buildings. Data indicated that the soil gas vapor was impacting some of the structures. Ventilation systems have been installed in some of the residences. Additional indoor air sampling will be conducted this winter to determine the extent of impacted homes. An Administrative Order issued to Delfasco requiring them to address the vapor intrusion problem has been referred to the Department of Justice (DOJ) for enforcement

**England AFB:** Samples were collected from sub-slab, crawl space and indoor locations at the clinic. Indoor air sampling did not indicate a complete pathway.

**Parker Solvents:** Samples were collected from 4 homes, 4 highway department buildings and office/warehouse structures at the facility. The results indicated some contaminants were above screening levels; however the contaminants did not appear to be caused by the shallow groundwater plume.

**Next Steps:** Initiate a dialogue with States and industry on the soil vapor intrusion pathway. Focus on how we are addressing offsite plumes with our clean up programs and continue to offer technical assistance to the Region 6 States as needed. As follow-up to our previous study we are providing technical assistance to Arkansas to evaluate the vapor intrusion pathway at a site in Wynne. Our preliminary results indicate there is not a complete pathway from the soil column to indoor air. However, we did identify a potential ambient air issue which is most likely caused by the groundwater treatment system. The State will follow-up with the facility.

**U.S. - Mexico Border Program:** The U.S.-Mexico border region is home to 12 million people, and extends more than 2,000 miles (3,100 kilometers) from the Gulf of Mexico to the Pacific Ocean. Region 6's border between New Mexico and Texas is approximately 1,300 miles long. As a result of the 1983 Agreement between the United States and Mexico on cooperation for the protection and improvement of the environment in the border area, commonly known as the "La Paz Agreement," both the U.S. and Mexico determined that the "border region" would extend 62.5 miles (100 kilometers) on each side of the international border.

Ninety percent of the border population resides around 14 sister cities. Rapid population growth in urban areas has lead to unplanned development, greater demand for land and energy, increased traffic congestion and waste generation, overburdened or unavailable waste treatment and disposal facilities, and more frequent chemical emergencies. Residents in rural areas suffer from exposure to airborne dust, pesticide exposure, inadequate water supply and waste treatment facilities. Projected population growth rates in the border region exceed anticipated U.S. average growth rates (in some cases by more than 40 percent) for each country. By 2020 the population is expected to reach 19.4 million.

**Significant Issues & Interested Parties:** Border residents suffer disproportionately from many environmental health problems, including water-borne diseases and respiratory problems. The numerous binational entities, together with the public, developed the current binational environmental plan "Border 2012" program. The mission of Border 2012 is to protect the environment and public health in the U.S.-Mexico border region, consistent with the principles of sustainable development.

The Border 2012 program takes a bottom-up, regional approach, which relies heavily on local input, decision-making, priority-setting, and project implementation to best address environmental issues in the border region. Region 6 co-Chairs two of the binational Border 2012 Regional Workgroups: The New Mexico-Texas-Chihuahua and the Texas-Coahuila-Nuevo Leon-Tamaulipas Regional Workgroups.

A recent binational review resulted in a refinement of the Border 2012 program to address Greenhouse Gas Emissions along the U.S.-Mexico Border. In addition, on April 16, 2009, President Obama and Mexico's President Calderon announced a new binational framework on energy and climate change. The Bilateral framework will focus on: renewable energy, energy efficiency, market mechanisms, forestry and land use, green jobs, low carbon energy technology development and capacity building. The Border 2012 Program will play a key role in the development and implementation of this binational strategy.

Water infrastructure needs continue to be a significant concern for the vast majority of underserved communities along the U.S.-Mexico border. The Border Environmental Infrastructure fund was created to address infrastructure needs along the border. However, this fund has experienced significant reductions over the past decade while community needs continue to increase. As an example, the number of communities requesting U.S.-Mexico Border Water Infrastructure funding for FY09/10 included 212 applications, representing \$1.1 billion in funding need.

***Current Status & Next Steps:*** With the leadership of the 10 Border States, 26 U.S. Tribes, numerous binational institutions, and active participation of border communities, the Border 2012 program has leveraged knowledge, resources, and expertise to significantly improve the quality of life and the environment for communities along the U.S.-Mexico border.

The Border 2012 partnership has been at the core of these remarkable achievements and future efforts will continue to embrace innovation, environmental results, collaboration, and leveraging of resources to fulfill the program's mission and goals. Border 2012 partners have begun discussions on the development of the next border plan. The development of the next border plan will continue to include input from all border stakeholders.

Border 2012 partners are committed to uphold the Program guiding principles that border communities have voiced over the past decade. These include:

Achieving concrete, measurable results;

Fostering transparency and public participation;

Adopting a bottom-up approach for setting priorities and in decision-making;

Measuring program progress;

Reducing the highest public health risks;

Recognizing sovereignty of U.S. Tribes;

Recognizing historical debt of indigenous peoples in Mexico;  
Addressing disproportionate environmental impacts;  
Improving stakeholder participation; and  
Strengthening capacity.

**Ozone and Lead Nonattainment Designations:** The Clean Air Act deadline for new nonattainment area designations is approaching. EPA revised the national ambient air quality standards (NAAQS) for ozone was lowered from 0.08 parts per million (ppm) to 0.075. The NAAQS standard for lead was lowered from the 1.5 micrograms per cubic meter (ug/m<sup>3</sup>) level set in 1978, to a level of 0.15 ug/m<sup>3</sup>. Within one year of promulgation of a new or revised NAAQS, the Clean Air Act requires the Governor of each state to submit to EPA a list of all areas in the state, recommending designations for each as “attainment,” “nonattainment,” or “unclassifiable” with respect to the new or revised standard. Thus, recommendations for Ozone were due March 12, 2009 and recommendations for Lead are due October 15, 2009. The Agency is required to issue final designations for areas attainment status by March 12, 2010 for ozone and by October 15, 2010 for lead (although that deadline may be extended up to one additional year if EPA determines that insufficient information is available to establish designations by that date). Following the announcement of intended designations, States and Tribes will have the opportunity to comment on any modifications EPA proposes to their recommendations. Our designations will be based on the most recent 3 years of certified, quality assured monitoring data available.

**Significant Issues & Interested Parties:** Designation boundary decisions are always draws a great deal of attention because of the requirements that go with a nonattainment designation. In the case of ozone, the presumptive boundary for a nonattainment area is the consolidated metropolitan statistical area (CBSA) or core base statistical area. In many cases our States have recommended areas that are much smaller than the CBSA. There will be many more ozone nonattainment areas in the Region as a result of the ozone standard being lowered. In the case of lead, the only known area that is not meeting the new standard is an area around a secondary lead smelter in Frisco, Texas. Texas is recommending that the nonattainment area include portions of the town of Frisco.

**Current Status & Next Steps:** The Region will be working with Headquarters to insure that ozone designations are done in a nationally consistent manner.

**Resource Conservation and Recovery Act (RCRA) Hazardous Waste Clean Up:** EPA, in conjunction with the States, developed a baseline of facilities governed by RCRA that have released hazardous waste that likely pose the greatest human health threat. Region 6 has 414 facilities on the baseline that need to have remedies constructed by 2020. Commitments are made annually to Headquarters through the Government Performance and Results Act process to accomplish this goal. EPA Region 6 has historically met

all of its annual GPRA commitments, often times leading the Nation in accomplishments and is on track to meet the 2020 goals.

**Significant Issues & Interested Parties:** All the Region 6 States are delegated the RCRA program and we work in partnership with them to accomplish these goals. The majority of the baseline facilities are located in Texas and Louisiana. Given this we coordinate closely with them and assist them directly on a considerable number of sites.

**Current Status & Next Steps:** We are currently on track to meet our 2020 goals, however the more complex and under funded sites are still a concern so we are utilizing many different technical approaches and funding mechanisms to leverage clean up at the sites.

**American Recovery and Reinvestment Act Funding for Leaking Underground Storage Tank (LUST) Cleanups:** EPA must award funding provided by the American Recovery and Reinvestment Act to assist the state Leaking Underground Storage Tank (LUST) programs. EPA must increase its transparency in how the funding is used and how many jobs are created.

**Background:** The ARRA provided funding to the LUST program. Nearly \$20 million came to the Region 6 States. The LUST program has to work out Davis-Beacon and Buy American Provisions before it awarded cooperative agreements to the States. Region 6 awarded this funding to the Region 6 States on July 10, 2009.

**Significant Issues & Interested Parties:** Recipients must make reports to the ARRA website by the 10th of each quarter on several items including money spent on each project and how many jobs were created or saved. EPA does not yet have all of the guidance in place for the October 2009 reporting period.

**Current Status & Next Steps:** The Regions and States are registering to various databases in order to enter required data and oversee that data.

**Region 6 Clean Energy-Climate Change Strategy:** The Region 6 Clean Energy Climate Change (CECC) Strategy summarizes how the Region will address energy and climate change issues. It is an internal document to guide the Region as we reduce our own effects on greenhouse gases emissions that affect climate change, assist others in doing so, and adapt to an evolving environment under the influence of the changing climate. Since there is currently not Federal legislation concerning climate change, the Region 6 Strategy is designed to show how the Region can address climate change now and prepare itself for future legislation and EPA initiatives.

**Background:** In 2007 EPA's Office of Air and Radiation (OAR) began clean energy-climate change white paper workgroups to focus future priorities, while EPA's Office of Water completed a climate change priorities report. In June 2007



EPA held its first Agency-wide Climate Change meeting in Seattle, at which three Region 6 employees participated. As a consequence of these activities, Region 6 Senior Management elected to empower a staff-driven workgroup to meet and produce a draft Region 6 CECC Strategy. A group of over 35 Region 6 senior staff members from all Divisions convened in the October 2007 - April 2008 period to lead the construction of the CECC Strategy. During this period, existing and high priority prospective activities with EPA, other federal agencies, States, Locals, non-profits and the private sector were catalogued, all Region 6 employees were queried as to their recommendations for future actions, Division Directors were briefed and interviewed, and draft versions of the Strategy were circulated for comment. This process culminated in an April 2008 final briefing of Region 6 Senior Management and its endorsement of the Strategy.

***Significant Issues & Interested Parties:*** Region 6 States have over 35% of industrial greenhouse gas emissions in the U.S., while Texas is the largest greenhouse gas emitter in the country, its totals exceeding those of the number two and number three States (California and Pennsylvania) combined. It has been reported that if Texas were an independent country, it would rank as the eighth largest greenhouse gas emitter in the world. Clearly, CECC should be a significant Region 6 priority.

While future climate change regulations may bring additional FTE and grants/contracts funds to Region 6, the current budget does not independently support a level of activity to fully invest in CECC activities. Many partnership activities in the CECC Strategy are funded for reduction of other pollutants but offer co-benefits in terms of greenhouse gas reductions. The Region is therefore leveraging FTEs internally as well as looking to other organizations (e.g., DOE, USDA, States, locals, non-profits, for-profits) to join partnerships for greenhouse gas reductions. Interested parties include States, locals, Tribes, non-profits, and for-profit organizations.

***Current Status & Next Steps:*** Region 6 staff updated the reporting matrix of the CECC Strategy in Spring 2009, to expand annual reporting on the six priority areas mentioned above. A final 2009 performance report should be completed by December 2009. Upon the finalization of additional, national EPA regulatory initiatives in CECC, we will revise the Strategy to reflect these new priorities.

***State Implementation Plan (SIP) Backlog:*** The Clean Air Act requires that States submit State Implementation Plans (SIPs) to EPA on how the State will achieve National Ambient Air Quality Standards. The Clean Air Act gives the EPA 12 months after a plan has been found administratively complete to approve or disapprove a State Implementation Plan revision. We have up to 6 months to determine if a plan is complete. So, in practice, we have approximately 18 months to act on SIP revisions. Because Region 6 devotes a large part of our air resources to working through issues of SIPs that involve serious air quality problems, the Region has not had the resources to act on all SIP revisions

received. As a result, a backlog of pending SIP revisions has developed. Over 100 SIPs relating to not serious air quality issues are past due for processing.

**Background:** The backlog in SIPs, until recently, has primarily been of interest to our States. Now environmental groups and industry groups have become concerned about the backlog. Several environmental groups have filed intent to sue EPA for not acting on all SIPs. If suits are filed and won, EPA, Region 6 would be forced to divert resources from addressing problem air quality issues to process all SIPs received.

**Significant Issues & Interested Parties:** Wild Earth Guardians, in conjunction with Sierra Club, has sent freedom of information requests to all but one of the EPA Regional offices asking for lists of all of the pending SIP revisions and copies of each of these SIP packages. The backlog problem is not limited to Region 6. Wild Earth Guardians filed a Notice of Intent to sue Region 8 for action on approximately 30 SIPs that were over due. Wild Earth Guardians followed with a notice of intent to sue regarding overdue action on transport SIPs for several States including New Mexico and Oklahoma. Now on August 13, 2009, Wild Earth Guardians has filed a notice of intent to sue due to our being late in the processing of some 30 SIP revisions for the State of New Mexico and Bernalillo County.

**Current Status & Next Steps:** The Region will work with Office of General Counsel and Department of Justice to attempt to settle the potential litigation by negotiating schedules for processing the SIP revisions. If we cannot settle, a court may impose a schedule that would require diversion of resources from other programs.

**Pesticides Enforcement Lean Event:** Lean is a business model and a collection of methods that help eliminate waste while delivering quality products on time and at least cost. EPA is interested in finding ways to maximize the environmental benefits of Lean by streamlining our administrative processes. As a pilot for Region 6, the Pesticides Section will be conducting a Lean event on their enforcement program.

**Background:** EPA and many state environmental agencies are using lean principles to dramatically improve administrative processes while maintaining environmental protection. Processes range from air permitting to the development of water quality standards, and within a few months of implementation, Delaware, Iowa, Michigan, Minnesota, and Nebraska agencies have drastically reduced permit application backlogs, reduced lead times for permit reviews by more than 50 percent, decreased the complexity of permit application forms, improved the consistency of permit reviews, and made more staff time available for "mission critical" work. Lean process principles can be implemented while improving staff morale and increasing the transparency of their processes to stakeholders, without sacrificing environmental protection goals or reducing value-added permit review time.

**Significant Issues & Interested Parties:** This is a Region 6 pilot effort to demonstrate the continuous process improvement benefits of Lean.

**Current Status & Next Steps:** The Pesticides Section will be conducting a Lean event the enforcement team's case development process on October 27-29, 2009. The three day event will measure and identify areas for improvement within the team's program to reduce the time necessary to produce FIFRA enforcement products. The team will:

- Develop a visual representation of process flow involved in delivering outputs to customers,

- Identify sources of non-value added activities (waste) and prioritize future waste minimization/elimination/improvement activities,

- Establish a vision for the future, including development of a plan to achieve the vision, and

- Develop a continuous improvement process for the team to use in periodic evaluation of improvement opportunities.

**RadNet:** RadNet is a national network of radiation monitors used to track environmental releases resulting from nuclear emergencies and to provide baseline data during routine conditions. Upon completion. The network will consist of 143 monitors nationwide, with 21 in Region 6.

**Background:** Each regional office has been tasked to identify sites and operators for RadNet monitors. To date Region 6 has 16 monitors in place. The figure below shows the Region 6 locations and the year that the monitor became (or will be) operational.

**Significant Issues & Interested Parties:** The interested parties include local cities and nongovernment organizations (e.g., colleges and universities) that operate and maintain the monitors. Our laboratory in Montgomery, AL provides support to the interested parties regarding related field and testing activities of the monitors.

**Current Status & Next Steps:** We are on schedule to meet the regional target in 2010.

**Alternative Asbestos Control Method Research:** EPA's National Risk Management Research Laboratory (NRMRL), EPA Region 6 and other EPA offices, have studied an alternative process of demolishing structures that contain asbestos. This research includes a comparison of the alternate method to the standard method of asbestos removal prior to demolition. The research includes data collected during two additional research demolitions that utilized the alternative method.

**Background:** In response to Section 112 of the Clean Air Act which requires EPA to develop emission standards for hazardous air pollutants, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP). 40 CFR Part 61 Subpart M (Asbestos NESHAP) specifically addresses asbestos, including demolition activities. The Asbestos NESHAP has not been significantly changed since its development in 1973. Asbestos NESHAP regulations require that all regulated asbestos-containing materials (RACM) above a specified amount be removed from structures prior to demolition. Asbestos-containing materials (ACM) are defined as those materials containing more than one percent asbestos. Asbestos removal can account for a significant portion of the total demolition costs. In many cities, the cost of asbestos removal prohibits timely demolitions and results in substandard structures which become fire and safety hazards, attract criminal activity and lower property values. This Alternative Asbestos Control Method Research was developed to test an alternative work practice where certain RACM are left in place. The goal of the research is to provide significant data concerning the release of asbestos fibers during demolitions using the alternative method, and to provide a cost comparison to the current work practices standard.

**Significant Issues & Interested Parties:** Thousands of unused and abandoned buildings across the country contain ACM. Communities are challenged to deal with these buildings, especially during tough economic times. Community leaders, environmental groups, asbestos abatement companies, State and local agencies as well as project sponsors all have an interest in this research.

**Current Status & Next Steps:** NRMRL is now in the process of finalizing the research reports for the second and third demolitions (AACM#2 and AACM#3) along with the Peer Review Comments Report addressing issues raised during the public meeting with the Peer Review panel on September 11-12, 2008. They are also responding to issues raised by the EPA Office of Enforcement & Compliance Assurance (OECA). Once concurrence has occurred with OECA, the Office of General Counsel and the Office of Air Quality Planning and Standards, documents will be prepared for public release.

## **Pesticide General Permit for Point Source Discharges from the**

**Application of Pesticides:** A Final Clean Water Act (CWA) Pesticides Rule was issued November 27, 2006, that stated application of a pesticide to waters of the United States did not require a National Pollutant Discharge Elimination System (NPDES) permit. On January 7, 2009, the 6th Circuit Court of Appeals vacated the CWA Pesticides Rule. The Court issued an order granting a 24 month stay of the mandate until April 9, 2011, so that EPA may have time to develop a NPDES Pesticide General Permit (PGP).

**Background:** The 2006 CWA Pesticides Rule stated that the application of pesticides to waters of the United States consistent with all relevant requirements under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) does not constitute the discharge of a pollutant that requires an NPDES permit in the following two circumstances:

1. The application of pesticides directly to waters of the United States in order to control pests. Examples of such applications include applications to control mosquito larvae, aquatic weeds, or other pests that are present in waters of the United States; and
2. The application of pesticides to control pests that are present over waters of the United States, including near such waters, where a portion of the pesticides will unavoidably be deposited to waters of the United States in order to target the pests effectively; for example when insecticides are aerially applied to a forest canopy where waters of the United States may be present below the canopy or when pesticides are applied over or near water for control of adult mosquitoes or other pests.

**Significant Issues & Interested Parties:** Environmental groups argued that EPA exceeded its authority under CWA. EPA may not exempt FIFRA-compliant applications of pesticides from the requirements of CWA. Industry petitioners argued the final rule was insufficiently broad: all pesticides used in compliance with FIFRA should be exempted as pollutants under the CWA. Approximately 5.6 million applications annually are performed by 365,000 applicators for these types of pesticide uses. 500 different pesticide active ingredients are contained in approximately 3,700 product labels for these types of pesticides.

**Current Status & Next Steps:** A final general permit is scheduled for issuance in December 2010. EPA is currently developing the prototype general permit with the following pesticide use categories:

1. Mosquito larvicides & adulticides;
2. Herbicides used to control weeds in lakes, ponds, irrigation systems and other waterways, and ditch banks in agricultural drainage systems;
3. Insecticides used in wide-area insect suppression programs;
4. Herbicides used in wide-area control programs directed at aquatic invasive plants;
5. Herbicides, insecticides and other pesticides used in forestry programs when applied over waters of the U.S., and;
6. Products applied to kill fish, mussels, or other invasive aquatic species.

**Lead Based Paint, Renovation, Repair and Painting (RRP) Rule:** EPA recently published a final rule on the renovation, repair, and painting of pre-1978 housing and child occupied facilities (day care, schools, etc). While EPA,

States, and some Tribes currently implement lead paint abatement programs, this RRP rule expands training requirements to those who may disturb lead based paint during renovation, repair, and painting activities. Most States are reluctant to implement this expanded lead paint program.

**Background:** The States of Arkansas, Louisiana, Oklahoma, Texas, and one tribe, the Cherokee Nation, are currently authorized to implement lead based paint abatement programs, including requiring training for lead paint inspectors, risk assessors, and those engaged in lead paint abatement. Region 6 implements the program in New Mexico and most tribal lands.

The States of Louisiana and Arkansas have declined to seek authorization to implement the RRP rule in those States. Texas is considering authorization. New Mexico has not responded.

Oklahoma and the Cherokee Nation have indicated that they will seek authorization for the RRP rule. Legislative changes are needed for authorization.

**Significant Issues & Interested Parties:** Funding for States and Tribes to implement the new rule is limited. A one time grant of \$75K is available for program development. State agencies are concerned about the potential workload. Most renovators, remodelers, and painters are unaware of the new requirements (effective 4/22/2010).

**Current Status & Next Steps:** EPA Region 6 will work with Oklahoma and the Cherokee Nation on the development of an RRP program. In the remaining States and Tribes, the region will review and approve or disapprove all training provider applications. Region 6 staff is conducting outreach and compliance assistance to the public and the regulated community.

**Dallas Sustainable Skylines Initiative:** The Dallas Sustainable Skylines Initiative (DSSI) is a 3-year (2007-2010) public-private partnership to quickly reduce pollution in the Dallas area. The DSSI, it is being piloted in Dallas and is being led by the City of Dallas with support from the North Central Texas Council of Governments, EPA-Region 6, and EPA-Office of Air Quality Planning and Standards (OAQPS). With 23 non-profit, private, and public sector partners, DSSI has attracted approximately \$3.5 million in additional financial or in-kind support, in addition to an original \$250,000 commitment by EPA. In DSSI's first year, partners were responsible for air emissions reductions/avoidances of over 250,000 tons of carbon dioxide, 580 tons of sulfur dioxide, and 180 tons of nitrogen oxides.

**Background:** Region 6 hosted a two-day stakeholders meeting in December 2006 where 60 members of local and State governments, non-profits, and for-profit organizations brainstormed quickly implementable environmental improvement projects that could show significant results within three years. To highlight community sustainability initiatives nationwide, DSSI sponsored a

National Sustainable Communities Conference in Dallas in March 2009, with over 820 registrants.

**Significant Issues & Interested Parties:** Interested parties include other Region 6 communities which are interested in SSI-like partnerships, non-profits, and for-profit organizations.

**Current Status & Next Steps:** Region 6 staff are currently compiling a Year 2 DSSI emissions reduction report and are active in helping OAQPS launch a national SSI program with additional cities.

**Underground Storage Tank (UST) Inspections in Texas:** The Energy Policy Act of 2005 requires that state UST programs conduct on-site inspections at all UST facilities (gas stations) at least once every three years. Texas is not inspecting its underground storage tank facilities once every three years. To date, Texas has refused the offer of additional funding, saying that it was too little to fund the resources needed to accomplish the inspections. Recent Texas legislative changes may help.

**Background:** The Energy Policy Act passed in August of 2005. The Act included several provisions that apply to the Underground Storage Tank Program. Specifically, each UST facility must be inspected at least once every three years. In addition, the Act has that if a state fails to meet any of the provisions of the Energy Policy Act, then EPA will withhold program funding.

EPA has determined that if a state is making significant progress in meeting the Energy Policy Act requirements, that we will continue funding.

**Significant Issues & Interested Parties:** Texas UST inspection frequency is currently about once every 10 years. The Texas Commission on Environmental Quality (TCEQ) is unable to use federal funding to conduct inspections because it cannot hire additional FTE's nor hire a contractor to conduct the inspections (which also count against their FTE cap) without state legislature approval.

**Current Status & Next Steps:** The past legislative session allows TCEQ to now hire contractors to conduct UST inspections. TCEQ is in the process of applying for a grant from EPA to conduct the inspections. EPA has the funding for the past two years and this year available.

**Pesticide Worker Safety Regulations Proposed New Rule:** The Worker Protection Standard (WPS) establishes requirements for agricultural employers to provide protections for workers laboring in pesticide-treated fields, and for pesticide handlers who mix, load, and apply those pesticides. Exposure reduction measures are included to reduce the risk of pesticide poisonings among agricultural workers and pesticide handlers. Agricultural employers are required to comply with the WPS when pesticides with labeling that refers to the

WPS have been used on an agricultural establishment. A new, more protective, WPS rule is now being proposed and is in the options selection phase.

**Background:** The Federal Insecticide, Fungicide, and Rodenticide Act agricultural WPS regulation was last amended in 1992 to expand coverage and improve protections for farmworkers and handlers of pesticides. Studies continue to show that farmworker families have higher levels of pesticide exposure than non-farmworker families. Additionally, farmworkers and handlers face disproportionately high risk of exposure to pesticides through their occupations. The proposed new WPS rule provides requirements that form a comprehensive strategy to inform, protect, and mitigate pesticide exposure of agricultural farmworkers and handlers.

**Significant Issues & Interested Parties:** Three major issues are being addressed in the proposed new WPS rule:

1. *Inform* - Training & right-to-know (handlers & workers);
2. *Protect* - Field posting, early-entry worker notification & recordkeeping, respirator fit test, training & medical evaluation; and
3. *Mitigate* - Handler decontamination, cholinesterase monitoring (handlers).

Three options are currently being evaluated. Cost estimates are based on 212,000 farms that use pesticides and hire workers. Farmworker advocacy groups support the more protective, but expensive alternate option 1. EPA workgroup option = \$70.4 million; Alternate option 1 = \$1.41 billion; and Alternate option 2 = \$51.2 million.

**Current Status & Next Steps:** The proposed new WPS rule is currently undergoing options selection, and Final Agency Review is scheduled for January 2010.

**Tribal Open Dumps:** The Region 6 tribal solid waste programs assists Tribes in the development of solid waste management plans, and the prevention of illegal open dumping. In the last 3 years over 59 tribal open dumps have been cleaned up.

**Background:** In 1997, Congress passed an Act that required IHS with consultation from EPA to address open dumping on Indian Land. Before open dumping can be fully controlled, the Tribes must have a means to manage solid waste. The Tribes have had some success by developing solid waste management plans. There are no community open dumps anymore with any of our Tribes, however there continue to be many roadside open dumps. Recently IHS and EPA have agreed to use IHS's database to record and track open dumps on Indian Land. In order to receive funding to address an open dump, the dump must be listed in this database. EPA and IHS have encouraged the Tribes



to get this information entered into the database and are providing substantial technical assistance and outreach to help them accomplish this. We have had good success working with Tribes directly, as well as utilizing two tribal consortia.

**Significant Issues & Interested Parties:** There are 66 federally recognized Tribes in Region 6. Many of the Tribes list solid waste management as a high priority.

**Current Status & Next Steps:** There are over 400 open dumps identified in Region 6. There is very limited funding to address these dumps. EPA will continue to assist the Tribes to improve their solid waste programs through national competitive grants and other funding sources.

**Hazardous Waste Combustion (HWC):** From a national perspective due to the large amount of chemical manufacturing plants in Louisiana and Texas, a majority of the incinerators, boilers and industrial furnaces that burn hazardous waste reside in Region 6. Under the National Emission Standards for Hazardous Air Pollutants (NESHAPs) program, Maximum Achievable Control Technology (MACT- Subpart EEE) standards have been developed to ensure that emissions resulting from the burning of hazardous waste are minimized. Region 6 is recognized nationally for its technical expertise in the combustion of hazardous waste. Currently the regulations require the boilers and industrial furnaces to test the efficiency of their units in 2009 and 2010. There has been considerable dialogue and work between Region 6 and industry on technical issues with respect to these tests. Region 6 is working closely with industry to get the tests completed consistent with the regulations and with in regulatory timeframes.

**Significant Issues:** Industry is concerned with the delay in getting approvals to start scheduling tests.

1. *Thermocouple location* – We are ensuring that each unit is measuring temperature in an appropriate location to ensure that the unit is as efficient as possible in burning hazardous waste.

2. *Positive Pressure Boiler Conditions* - for those units that are forced draft or balanced draft we are not considering them sealed. Based on this we are including the following language in our approvals:

*Combustion Zone Pressure:* The hazardous waste combustors must prevent fugitive emissions by either having the unit completely sealed or continuously monitor pressure in the combustion zone and trigger automatic waste feed cut-off (AWFCO) if the pressure becomes positive (§63.1206(c)(5)(i)) and 1209 (p). EPA does not consider your unit as a completely sealed one. The negative design pressure unit must comply with the instantaneous monitoring and AWFCO requirements specified in 1209 (p). The positive design pressure unit must continue with periodic monitoring and maintenance requirements specified in the current RCRA permit, which includes the requirement to 'observe' the

leaks at least once a day. In order to comply with the MACT requirements to prevent the fugitive emissions, the positive pressure units must monitor and record combustion zone pressure, and implement six-point documentation for each seal. It will include: (1) the facility documents the manufacturer's design pressure for each seal (e.g., gasket, rope, tape, packing, etc); (2) the facility documents the manufacturer's recommended maintenance/replacement procedures for each seal to ensure that design performance is maintained; (3) the facility documents the maintenance/replacement history of each seal; (4) the facility documents the boiler manufacturer's design combustion chamber pressure; (5) the design pressure of the seal w/ the lowest design pressure is substantially (e.g., factor of 10) higher than the boiler design pressure; and (6) the facility documents that the nominal operating pressure of the boiler is below its design pressure.

***Current Status and Next Steps:*** We are applying the requirements to each of the units consistently in the Region. We have coordinated closely with EPA HQs to ensure we are applying the regulations correctly. We are at the point now that we should be able to issue approvals/conditional approvals for a majority of the units in the near future. If the facilities are in need of an additional 6 month extension we will be working with them to ensure they get the extension if warranted.

**National Partnership for Environmental Priorities - Better Environment, Better Neighbor, Better Business:** The National Partnership for Environmental Priorities (NPEP) is a partnership program between EPA, public and private organizations focused on the reduction of toxic chemicals. Region 6 has taken a leadership role in the program, having commitments for more pounds of hazardous chemical reductions than any other EPA Region. Region 6 has 38 partners who have committed to reduce over 28 millions pounds of toxic chemicals. Region has recruited members from each regional state.

***Background:*** The NPEP program was developed as one of the four pillars of the Resource Conservation Challenge. Focused on the better materials management and waste reduction of hazardous chemicals, NPEP reaches out to facilities promoting these initiatives. NPEP partners range from petro-chemical manufacturers to local and state governments.

***Significant Issues & Interested Parties:*** A commitment to reduce over 28 million pounds of toxic chemicals, Region 6 has partnered with 38 organizations that have been bestowed with many special awards. Rubicon facility received the keys to the parish, and Fred Goodson, Shell Representative, received a special award from HQs recognizing him for recruiting other facilities.

***Next Steps:***

1. *School Chemical Cleanout Campaign – A DoD/EPA Partnership Proposal:* It is estimated that about 33,000 middle and high schools across the US have unneeded or mismanaged chemicals, potentially affecting 21 million children, sensitive population. This project proposes to reduce the potential risk of spills, explosions, or accidental exposures from these chemicals to our sensitive populations surrounding military bases. This will create: Better Environment; Chemical spills incidents reduced, small scale chemistry, chemical management; Better Neighbor: Improved community safety, improved communications, and Better Business: Reduced liability for safety, environmentally friendly substitutions, sustainability

2. *NMED & EPA NPEP Partnership – Memorandum of Agreement:* EPA Region 6 and New Mexico Environment Department are working on three facilities; two (NASA WSTF, VA Albuquerque) for membership into the NPEP program and one (Holloman AFB) seeking application. NMED's Green Zia program is being revamped and EPA is in the process developing a possible MOU between the two programs to work to gain more companies to reduce toxic chemicals within the State.

**Overview of the Lead Region System:** The Lead Region system is part of a communication mechanism to ensure the quality of Agency decisions by providing an organized, consistent and effective regional role in all the major phases of Agency policy, regulatory and resource decision-making. The system provides an opportunity to identify and synthesize the concerns of all 10 regions into a "Regional view." The Lead Region system has 12 Lead Region Coordinators nationwide working with the various National Program Managers (NPMs) and the respective programs in the regions.

**Background:** All NPMs and other offices have Lead Regions and Lead Region Coordinators with a rotation of assignments every two years. For example the Lead Region for OW, currently in Region 3, will rotate to Region 6 for FY 2011-2012. Regional Administrators (RA) and Deputy Regional Administrators (DRA) provide their preferences every two years for consideration on this rotation.

For Region 6, we currently have Lead Region responsibilities for The Office of Prevention, Pesticides and Toxic Substances (OPPTS) and for Regional Science and Technology/Office of Research and Development (ORD)

Three key responsibilities of the Lead Region:

Planning- assist in the development of priorities, budgets and programs

Coordination- meetings and conferences, intranet web page, information bulletins

Control – assist with obtaining feedback, allocation formulas

Programmatic- assist in improving programmatic functions with information on new technologies, etc.

**OPPTS Lead Region System:** For the OPPTS programs in Region 6, the Multi-Media and Planning and Permit Division (6PD) in Region 6 covers the Toxics and Pesticides and the Compliance Assurance and Enforcement Division (6EN) covers the pollution prevention. However, all the Regions are organized differently.

The OPPTS Lead Region System currently has 10 sub-leads on specialized topics that are located in different regions. There is also a Budget Workgroup which consists of all the Regional Division Directors. It is structured this way to ensure that we achieve corporate decisions/discussions on tough decisions. Region 6 has also developed the Lead Region intranet site (<http://region6.epa.gov/intranet/6pd/oppts/index.htm>) which includes:

Each Regions' organization chart for OPPTS programs and a business plan

Past meetings including agendas, presentations, and a chart capturing decisions and/or next steps

Upcoming meetings

Other helpful links to the Chief Financial officers planning and budget cycles

***Significant Upcoming Events and Current Issues:***

OPPTS Regional Division Directors' Meeting, Oct 27-28th, 2009 in Bethesda, Maryland.

New ruling for pesticides under the Worker Protection Safety rule.

National Pollutant Discharge Elimination System (NPDES) and pesticide application: National Cotton Council 6th Circuit Court Decision. This determination would require NPDES permits for pesticide application.

Implementation of the Renovation, Repair, and Painting rule is expected to take a larger share of the Lead (Pb) program's resources by FY10 as applicators are accredited.

The new Pollution Prevention Strategy will begin implementation in FY10.

Planning and development of the FY2011 budget, and performance and accountability planning.

One last item to mention in this quick overview is that OPPTS programs are different in that they are not delegated to States/Tribes.

**Regional Science and Technology (RS&T) Lead Region System:**

Six EPA regions have RS&T Divisions- Regions 1, 2, 3, 4, 7, and 10. The Management Divisions in the other regions took on the responsibility of the regional laboratories and field activities were scattered among the region's media programs. Since there is no NPM for this important group, the lead region plays an important advocacy role to ensure that the RS&T message is heard.

By providing the appropriate scientific expertise to assess and manage risks to human health and ecosystems, Regional Science and Technology organizations apply sound science and offer innovative solutions to address environmental challenges facing our country.

***Significant Upcoming Events and Current Issues:*** There are no significant issues at this time. Below are current activities and issues:

RS&T Regional Division Directors' Meeting, December 8-9, in Lakewood, Colorado.

Field Operations audits and gap analyses

Lab efficiencies

Monitoring- budgets and new technologies

RARE (Regional Applied Research Efforts), RM (Regional Methods)-two ORD programs that provide monies for research of regional interest. Regional recommendations are due in December 2009.

### **Office of Research and Development (ORD) Lead Region**

**System:** This lead region function is not the typical HQ and Regional partnership. We do not involve ourselves in the day-to-day ORD activities, but voice the regional opinion on ORD products and services in order to improve their value to the EPA regional community. Currently we are working with ORD on their transformation into an integrated multi-disciplinary research organization to ensure that the regional research priorities are not lost.

## Superfund Division

**Grants Chlorinated Solvents Plume Superfund Site:** On June 30, 2006, the EPA signed the Record of Decision that includes mitigation for vapor intrusion in homes and buildings and addresses shallow and deep ground water contamination. The EPA began construction of Vapor Intrusion Mitigation Systems (VIMS) in affected homes in March and has completed 100% of the construction work. The EPA has taken action to install vapor mitigation systems in 13 homes and brought human exposure under control. The EPA is currently implementing a remedy to clean up the ground water and restore it to safe drinking water standards.

**Background:** The Grants Chlorinated Solvents Plume (GCSP) Site is located in the City of Grants, Cibola County, New Mexico. The site is in a mixed commercial and residential neighborhood, and consists of an area of contaminated groundwater containing chlorinated volatile organic compounds (CVOCs) at concentrations greater than EPA Drinking Water Standards or maximum contaminant levels (MCLs). The approximate area of groundwater contamination at the GCSP Site is 20 acres. The CVOC impact to the groundwater is associated with historical dry cleaning operations at the active Holiday Cleaners and an Abandoned Cleaner. The active Holiday Cleaners has operated at its current location since approximately 1969, and under the current ownership since approximately 1975.

The Site was listed on the NPL in 2004 and the EPA issued a Record of Decision (ROD) in 2006. Multiple technologies were picked in the ROD based on the contaminant concentration and location in the ground water plume. The remedy selected in the ROD includes the following: Indoor Air Remedy = Vapor Intrusion Mitigation Systems (VIMS). Ground Water Remedy = Source Areas -Thermal Treatment. Shallow Plume Core and Hot Spot - In-situ Chemical Oxidation (ISCO). Shallow Plume Periphery and Deep Plume - Enhanced Reductive Dechlorination (ERD).

**Significant Issues & Interested Parties:** The significant issue at the site is gaining access to private property including the source area at Holiday Cleaners. Without access to these properties the remedy implementation will be very challenging and could potentially slow down the treatment process.

Since this project has been awarded ARRA funding there is significant interest from within EPA and the community.

### **Current Status & Next Steps:**

**Remedial Action** - The EPA began construction of Vapor Intrusion Mitigation Systems (VIMS) in affected homes in March and completed 100% of the vapor intrusion mitigation systems in 13 structures in June. EPA is currently working on

the Remedial Design (RD) for the ground water phase of the project. The Preliminary Design report and the Value Engineering were completed in May.

*Next Steps* - The VIMS will remove the completed pathway for human exposure. The Ground water remedy construction is planned for FY2009 – FY2012. The first phase of the ground water remedy construction will begin using funding from the American Reconstruction and Recover Act.

**Uranium Mining:** The Grants Mineral Belt in northwestern New Mexico contains numerous mines and mill sites from uranium mining and milling operations that started in the 1950's. Legacy uranium mine and mill sites either have had documented contaminant releases, or may have the potential to release contaminants to the environment. Additional investigation is required to determine the extent of impacts to receptors, as little assessment of this nature has occurred to date. The EPA is working with the State of New Mexico to prioritize and fund assessment activities in the San Mateo Basin. In addition, the EPA is working with federal and state agencies to compile and memorialize a Five-Year Plan of all activities in-progress or planned for legacy uranium mining and milling in New Mexico.

**Background:** The Grants Mineral Belt (GMB) located in northwestern New Mexico was the major uranium-producing region in the United States from the 1950s through the 1990s. Located within the GMB, the San Mateo Creek Watershed includes land in Cibola and McKinley Counties as well as Tribal lands. Historical uranium mining affects over 320 square miles of the San Mateo Creek Watershed. The State estimates that approximately 125 abandoned or inactive uranium mines are within the San Mateo Creek Watershed. While cleanups by the Nuclear Regulatory Commission (NRC) and the Department of Energy (DOE) continue at the three old mill sites (Ambrosia Lake Mill, Phillips Mill and Bluewater Mill), the impacts of past mining operations remain mostly unchecked.

Several environmental justice, community-based organizations including the Multicultural Alliance for a Safe Environment (MASE), Southwest Network for Economic and Environmental Justice (SNEEJ) and Bluewater Valley Downstream Alliance (BVDA) are concerned about potential health impacts from living among this mining waste including soil, land and groundwater contamination. They are also concerned about impacts on Tribal cultural practices. Tribal governments including the Navajo Nation, the Pueblos of Acoma, Laguna and Zuni are also concerned about potential impacts from uranium mining waste to soil, air, surface water, ground water and cultural resources. On April 2, and August 11, representatives from Superfund and the Office of Environmental Justice and Tribal Affairs met with MASE, SNEEJ and BVDA to discuss concerns. EPA has committed to continue communications with all EJ and Tribal partners.

**Significant Issues & Interested Parties:** This site continues to have a high level of political interest by the parties listed below. Their interests focus on the impact of mine tailings and abandoned mines on groundwater and potable water sources. On April 7, EPA and NMED hosted the first partnership meeting for the San Mateo Watershed and representatives from 19 State, Federal and/or Tribal agencies were represented. EPA conducted a meeting on June 2, with a subgroup of State and Federal participants to begin developing a 5 year plan. EPA is working with federal partners and State government to establish a comprehensive regulatory framework to identify and remediate contaminant releases from legacy uranium sites.

Interested Parties include Governor Richardson, Senator Jeff Bingaman, New Mexico Legislative Subcommittee, NMED, NMEMNRD, NM Department of Health, IHS, BIA, BLM, DOE, NRC, USGS, USFWS, Navajo Nation, Acoma Pueblo, Laguna Pueblo, DOI, ATSDR, EPA Region 9, USACE and NM Bureau of Geology.

**Current Status & Next Steps:** A Five Year plan is being developed to provide a cross-programmatic approach to address the legacy uranium impacts to the groundwater and surrounding surface. Fund NMED to perform targeted assessments focused on groundwater in the San Mateo Watershed. Schedule formal consultation with impacted Tribal Governments; identify and assess structures in the villages near the Jack Pile Mine on Laguna Pueblo that have been constructed with mining rock. Work with New Mexico and federal partners to identify and compile all available groundwater data. Continue outreach work to engage community-based organizations.

### **Molycorp Inc. Proposed Superfund National Priority List (NPL)**

**Site:** The final Remedial Investigation (RI) and Feasibility Study (FS) Reports were submitted in July and August, respectively. There are 328 million tons of waste rocks that will require costly engineering to reclaim including possible relocation of a large volume of rock. Matters of dispute raised by CMI during the FS were resolved in June. A meeting with National Remedy Review Board (NRRB) is scheduled for September 16, 2009. The Molycorp site has a high level of political interest.

**Background:** The Molycorp Site is located near Questa, in northeastern New Mexico. The Site includes an operational underground molybdenum mine and milling facility located on three square miles of land east of Questa. The Site also includes operational tailing disposal ponds (tailing facility) west of Questa and a nine-mile long tailings pipeline running from the mill to the ponds. Chevron Mining Inc. (CMI) became owner and operator of the facility through corporate merger in 2007. There are approximately 1,100 people living in Questa. The Red River, a cold-water fishery, flows past the Site. It is home to a state fish hatchery one mile downstream of the ponds. In 1983, the Red River near its confluence with the Rio Grande was designated a "Wild and Scenic River" by



Congress. There are 328 million tons of waste rock and 100 million tons of tailings at the Site. Acid rock drainage from waste rock and natural areas at the mine, as well as seepage from the tailing ponds, impact ground water and surface water with metals and acidity. Fish are conspicuously absent from the Red River along the mine reach. Additionally, soil at the mill is contaminated with PCBs and molybdenum. Soil in the valley south of the tailings facility is contaminated with molybdenum. Historically, cattle and sheep grazing in the valley have become ill with molybdenosis. The Site is being addressed as one, Site-wide operable unit with five areas of cleanup: mill, mine site, tailing facility, Red River and area south of tailing facility, and Eagle Rock Lake. CMI is considering a solar energy pilot project for the tailing impoundment.

***Significant Issues & Interested Parties:*** The NMED is concerned about protecting the ground water and surface water on and around the site. The mine and tailings ponds are bounded to the south by the Red River, a tributary of the Rio Grande. The Red River is home to a State fish hatchery located two miles downstream of the tailings ponds and is designated as a Wild and Scenic River in the vicinity of its confluence with the Rio Grande. Over the years numerous breaks in the pipeline resulted in the spilling of tailings into and along the flood plain of the Red River, threatening the fishery and nearby endangered species habitats. Additional threats to ground water and surface water include seepage from the tailings ponds and acidic metal-laden water generated from the weathering of the waste rock piles (referred to as acid rock drainage) at the mine site. The contaminated ground water flows into the Red River alluvial aquifer. Some of the ground water within the alluvial aquifer flows into the Red River as seeps and springs at zones of upwelling. The New Mexico Mineral and Mining is concerned about the slope and factor of safety of the massive waste rock piles.

***CMI raises the following issues:*** (1) remedial alternatives that require relocation of massive volumes of waste rock, including use of inactive open pit as repository, are inconsistent with EPA decision-making, not practicable, and precludes mining in open pit area, (2) relocation of waste rock is based on absolute slope and factor of safety requirements which CMI considers premature, and (3) NM ground-water regulations, as applicable requirements under CERCLA, would require cleanup of all ground water including water beneath rock piles and tailing ponds. CMI claims this is inconsistent with NCP expectations for point of attainment of standards at boundary of waste left in place.

***Interested Parties include:*** New Mexico Environment Department, New Mexico Mineral and Mining, and Village of Questa. No high-ranking political official has shown particular interest to date.

***Current Status & Next Steps:*** Meeting planned with NRRB on September 16 in Santa Fe. Expect to finalize the RI and FS Reports in October. Plan to issue Proposed Plan in November, followed by the Record of Decision in March 2010.

**Mossville, Louisiana:** The unincorporated community of Mossville is situated near a large concentration of industry in Lake Charles, Westlake and Sulphur, Louisiana. Mossville's population is approximately 97% minority and 40% low-income according to the 2000 U.S. Census data. EPA has worked with the Mossville Environmental Action Group (MEAN), a small community group that has raised health concerns in this environmental justice community. The EPA and the Agency for Toxic Substances and Disease Registry (ATSDR) have conducted extensive investigations in the community and the surrounding estuary to evaluate sources of dioxin exposure.

**Background:** In 1997, the EPA and a community group from Calcasieu Parish, Louisiana requested that the Agency for Toxic Substances and Disease Registry (ATSDR) evaluate dioxin levels reported in 11 human blood samples. ATSDR issued a health consultation concluding that blood serum dioxin levels were elevated in many of the blood samples and recommended identification of the dioxin exposure source(s).

In response to this recommendation, ATSDR conducted an exposure investigation (EI) in the Mossville, LA, community in December 1998. ATSDR conducted blood tests for dioxin-like compounds on 28 self-selected residents of the community. The results showed most participants had blood serum dioxin levels above the comparison population.

Following the completion of the 1998 EI, community members expressed concern that the source(s) of their dioxin exposures had not yet been identified. In 2001, ATSDR reviewed information from the previous investigations along with environmental sampling data generated by EPA. Using this review, ATSDR developed a follow-up EI to 1) conduct more comprehensive environmental sampling at participants' residences to better determine if sources of dioxin were present in the home environments, and 2) re-sample participants' blood to evaluate how their dioxin levels were changing over time.

In May 2006, ATSDR released its studies of blood dioxin levels in Calcasieu Parish and Mossville. The parish-wide study showed that Calcasieu residents have blood dioxin levels similar to those found in people nationally. The Mossville follow-up exposure investigation found elevated dioxin levels in participants ages 45 and older while participants younger than the age of 45 had normal levels.

The parish-wide exposure study determined the amount of dioxin in people's bodies by analyzing their blood samples. For comparison, ATSDR conducted the same study in Lafayette, Louisiana.

*Among the findings of the Calcasieu Parish study:*

Calcasieu Parish residents have similar blood dioxin levels to people in Lafayette, the comparison population for the study.

Eighty-nine percent of the residents tested in Calcasieu and Lafayette ages 68 years and below have blood dioxin levels similar to U.S. population estimates. Eleven percent of residents over the age of 68 years have blood dioxin levels higher than U.S. population estimates.

Blood dioxin levels were about half the national average among the youngest age group evaluated (ages 15 to 29 years) in either Calcasieu or Lafayette. Blood dioxin levels decreased as age and length of time living in the parish decreased. These findings indicate no unusual current dioxin exposure to people in those parishes.

*The Mossville follow-up dioxin exposure investigation showed:*

Blood dioxin levels decreased in most participants between initial and follow-up testing.

Older participants had elevated blood dioxin levels compared to the U.S. population. This elevation is not expected to result in illness.

The elevated blood dioxin levels in older participants likely are from exposures in the past. Data indicates that currently there is no unusual exposure to dioxin.

Limited environmental sampling in Calcasieu Parish of some participants' well water, soil, indoor dust and locally raised fruits, vegetables and nuts did not reveal dioxin levels of health concern. However, some fish caught locally did have dioxin concentrations at levels of concern. ATSDR recommended that parish residents follow the state's fishing advisories.

The parish-wide study showed that Calcasieu residents have blood dioxin levels similar to those found in people nationally. The Mossville follow-up dioxin exposure investigation showed that older participants had elevated blood dioxin levels compared to the U.S. population; however, the elevated blood levels are likely due to exposures in the past. Data indicates that currently there is no unusual exposure to dioxin.

**Superfund Estuary Evaluation.** In 1999, EPA began an estuary-wide Superfund investigation that included Bayou Verdine and Bayou d'Inde which are close to the Mossville area. Bayou Verdine is approximately five miles long and flows between the cities of Mossville and Westlake through the Conoco-Phillips refinery, and ultimately to the Calcasieu River. The upper reaches of the Bayou Verdine were intensely sampled due to the proximity of Mossville. These reaches did not contain elevated levels of chemicals of concern.

A time critical action memorandum was signed by EPA in June 2002 for a removal action in Bayou Verdine at the confluence of the West Ditch on the Conoco-Phillips refinery. The action addressed high levels of ethylene dichloride in the sediments and was completed in 2004.

A non-time critical action memorandum was signed by EPA in July 2003 to address sediment contamination in the lower reaches. The proposed action was

principally based on an ecological impact. The non-time critical action is expected to be implemented under a Consent Decree with Conoco-Phillips.

Bayou d'Inde is located further from Mossville than Bayou Verdine, but it is more heavily contaminated. The Superfund investigation found elevated levels of chemicals including dioxin in sediments and fish tissues. The Louisiana Department of Environmental Quality is addressing the contamination through state authorities. The state is currently finalizing the corrective measures study to address the contamination.

**Significant Issues & Interested Parties:** Actively involved organizations include ATSDR, MEAN, Advocates for Environmental Human Rights. The community is not satisfied with the results of the ATSDR assessment of blood dioxin levels and the exposure investigations. MEAN and the Advocates for Environmental Human Rights published a report by Wilma Subra in July 2007 that criticized the work done by ATSDR and EPA and used Toxic Release Inventory (TRI) data to link industrial releases to exposure to the Mossville community. In May, MEAN published a health survey of 69 individuals living in Mossville. This report attempts to link health outcomes with industrial releases.

**Current Status & Next Steps:** EPA met with representatives of MEAN at the Environmental Justice listening session in New Orleans in July and again at the July National Environmental Justice Advisory Council (NEJAC) meeting. The week of August 17, EPA sampled drinking water at the tap for three residents, one church and the local recreation center. EPA also attended a health fair in Mossville on August 22 to update the community on EPA's planned activities. MEAN asked that EPA conduct an assessment to place the site on the National Priorities List (NPL). EPA is currently preparing a preliminary assessment and site inspection plan for Mossville. This is the first step in the evaluation process for potential ranking on the NPL.

**2009 National Brownfields Conference:** EPA with numerous partners and co-sponsors is sponsoring the 13th National Brownfields Conference in New Orleans, Louisiana, November 16-18. This is the largest most comprehensive conference yet focused on cleaning up and redeveloping abandoned, underutilized, and potentially contaminated properties in the nation.

**Background:** On November 16-18, the EPA will co-sponsor its largest conference yet focused on cleaning up and redeveloping abandoned, underutilized, and potentially contaminated properties in the nation. The registration is free and participants will gain access to more than 150 educational and learning opportunities, outstanding plenary sessions, 200 exhibitors, scores of networking events, special training sessions, film screenings, book signings and much, much more. Attendees include local, state, and federal leaders, financial and insurance providers, economic development officials, community development organizations, environmental and civil engineers, academia, real

estate developers and attorneys. Approximately 7,000 people registered for the 2008 Detroit Brownfields Conference, and we expect more than that in New Orleans. The EPA Administrator and Regional Administrator are expected to be active participants in the Conference including the welcome at the plenary session.

**Significant Issues & Interested Parties:** Numerous events are being held throughout the conference in which the Regional Administrator (RA) will attend. In an effort to give back to the community, a volunteer effort will be undertaken by EPA staff and other interested parties on Sunday, November 15. Additionally, Mathy Stanislaus, Assistant Administrator (AA) for OSWER will be attending an Environmental Justice Caucus following the volunteer event on November 15. The conference will open on Monday November 15 with an opening plenary session and the opening of the Exhibit Hall. The RA is expected to host a dinner for the other RA's that evening. On Tuesday morning, November 16, the RA will host an Open House which serves as a networking opportunity for Regional stakeholders (grantees, developers, non-profits, consultants, etc). On Wednesday morning, AA Stanislaus will be meeting with industry leaders. That evening, he will be meeting with local community members. Interested parties include the Broadmoor Improvement Association (BIA), Groundworks, City of New Orleans, Louisiana Environmental Action Network, Deep South Environmental Justice, and conference participants.

**Current Status & Next Steps:** Marketing and outreach for the conference is in high gear to register thousands of attendees. Scheduling EPA managers with community and industry leaders in New Orleans and Houston area. Continue to coordinate with the conference planning committee to host the conference and continue working through BIA and Groundworks to procure plants and materials for volunteer effort.

**San Jacinto Waste Pits Superfund Site:** On July 17, the EPA issued Special Notice Letters to potentially responsible parties (PRPs) inviting them to formally negotiate an Administrative Order on Consent to conduct the Remedial Investigation/Feasibility Study (RI/FS) at the site. In addition, due to the unique location of the site, the EPA, USACE, and TCEQ are working together to come up with permit solutions where dredging and/or construction activities may impact the RI/FS as well as future site cleanup.

**Background:** The San Jacinto River Waste Pits site is located on the western bank of the San Jacinto River near Houston, immediately north of the Interstate Highway 10 Bridge. The site occupies a 20.6 acre tract of land currently owned by Virgil C. McGinnes Trust and is bounded on the south by Interstate Highway 10, on the east by the San Jacinto River main channel, and on the north and west by shallow water off the River's main channel. The primary hazardous substances documented at the site are dioxins (polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans). A fish consumption advisory based

on dioxin is in place on this segment of the watershed. The site was listed on the EPA National Priorities List on March 19, 2008.

***Significant Issues & Interested Parties:*** This site has three significant issues: RI/FS, Watershed Management, and Enforcement. Interested public parties include Congressman Gene Green, Congressman Ted Poe, Harris County Attorney Vince Ryan, Harris County Judge Ed Emmett, and Houston-Galveston Area Council.

***Current Status & Next Steps:***

*Remedial Investigation/Feasibility Study.* The RI/FS implementation is being negotiated with the PRPs. The purpose of the RI is to define the nature and extent of the contamination from the SJRWP site. The purpose of the FS is to evaluate and recommend cleanup options after the completion of the RI. Federal trustees (National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife) and State of Texas trustees (Texas Commission on Environmental Quality, Texas Parks & Wildlife, Texas General Land Office) are assisting EPA with the RI/FS implementation. EPA, TCEQ, and trustees will be reviewing the technical aspects of a removal action proposal by the PRPs and finalizing the USACE permit conditions on August 28.

*Watershed Management.* EPA has concerns that dredging operations in the area around the site could impact the RI/FS at the site as well as water quality. EPA is working with the USACE which has authority to issue dredging permits, to resolve these concerns. EPA has proposed a conference call with representatives from the Galveston Corps and the TCEQ for August 31 to review the progress of workgroups established to address the issue.

*Enforcement.* On August 11, EPA met with International Paper Company and McGinnes Industrial Maintenance Corporation to discuss a PRP removal action proposal at the site. EPA conveyed to both IPC and MIMC that the while the potential removal action can be a component of the RI/FS, a removal cannot be done in lieu of the RI/FS. Both IPC and MIMC have until September 20 to submit a good faith offer (with or without the potential removal action) to negotiate the RI/FS with EPA.

**Tar Creek Site – Operable Unit 4:** On February 20, 2008, EPA signed a Record of Decision (ROD) that described a plan for chat sales, relocation of residents, and restoration activities within the Tar Creek Superfund site in northeastern Oklahoma. Post ROD negotiations with Responsible Parties were initiated by EPA on September 25, 2008 to determine necessary remedial activities to take place over the next few years. Tar Creek Superfund site has a high level of political interest.

**Background:** Tar Creek was placed on the National Priority List in 1983. The Tar Creek Superfund site is located in northeastern Oklahoma. It is part of the 2,500 square mile Tri-State Mining District which includes northeastern Oklahoma, southeastern Kansas, and southwestern Missouri. The Tar Creek portion covers approximately 40 square miles of the northeast corner of Oklahoma. It is a former lead and zinc mining area. A total of 83 chat piles covering an area of 767.05 acres and with a volume of 31.32 million cubic yards are located on the site. Some of these piles are over 100 feet high. Chat has been sold and trucked to Kansas and other States for use in road asphalt. Approximately 19,556 people live near the site.

The Tar Creek Superfund site is divided into 5 operable units that consist of water and groundwater (OU1), residential and high access areas with lead contaminated soils (OU2), abandoned laboratory chemical at the former Eagle-Picher Office Complex (OU3), and chat piles, mine and mill wastes, and smelter wastes (OU4), and sediments (OU5). OU1 after action monitoring of the drinking water source is ongoing. As of September 2007, EPA completed cleanup of 2,295 residential yards and public areas under OU2. OU3 is complete.

On February 20, 2008, EPA Region 6 issued the OU4 Record of Decision (ROD). The OU4 ROD, through collaboration with the State of Oklahoma, the Quapaw Tribe and other Tribal Governments, and local officials, documents an action for addressing the mine and mill waste. The ROD will contribute to the overall comprehensive plan to address site contaminants and site conditions. EPA consulted with the 11 Federally-recognized Tribes and involved them throughout the decision process to better understand and address their concerns. A public Trust established by the State is implementing voluntary relocation based on impacts from potential subsidence and chat piles. Residents applied for relocation under conditions established by the State Legislature in 2006. The Trust prioritized properties for relocation based on risk to children and other criteria. In Fiscal Year 2008, EPA provided \$17.55 million in Federal funding to the Oklahoma Department of Environmental Quality to assist with the voluntary relocation. The OU4 ROD addresses a number of things, including chat sales, voluntary relocation of residents and removing chat from streams and land.

**Significant Issues & Interested Parties:** This site continues to have a high level of political interest by the parties listed below. Their interests include continued funding necessary to complete the voluntary buy-out of residential and commercial properties, the sale of chat, and restoration of the site (land and waterways) that will support Tribal lifestyles. Interested parties include Regions 6 and 7, EPA HQs, Senator James Inhofe (OK-R), Congressman Dan Boren (OK-D), Oklahoma Governor Brad Henry, Oklahoma Secretary of Environment J.D. Strong, Quapaw Tribal Chairman John Berrey.

**Current Status & Next Steps:** EPA is providing funding for relocation to the State Of Oklahoma through a public Trust (the Lead Impacted Communities Relocation Assistance Trust - LICRAT). Since 2006 through July 2009,

approximately 574 properties have been closed and approximately 140 properties remain (total of 714 properties). Closure of the towns of Picher, Cardin, and Hockerville is planned for the fall. The Pre-final remedial design for OU4 is complete. EPA initiated negotiations on September 25, 2008, with Responsible Parties by the issuance of a Special Notice Letter to conduct the Remedial Design/ Remedial Action for OU4. During the 60 day negotiation period, EPA will continue to work with the Department of Interior (DOI) to facilitate the sale of chat, and to address Tribal issues relating to liability and access. The remedial activities needed over the next few years will include completion of a hydrogeologic study to guide disposal of chat or chat fines, completion of relocation under the State Trust and chat consolidation for enhancing marketability of distal chat. Award the OU4 RA contract and commence remedial action work utilizing the stimulus funds in the fall Of 2009. Plans to address remaining activities associated with OU2 are underway.

**Renewable Energy:** In 2008, Region 6 formed a cross program Green Remediation Team to promote the use of alternative energy on contaminated or potentially contaminated lands. Green remediation technologies will serve as a touchstone for Region 6 responses and cleanup actions. In December 2008 Region 6 partnered with New Mexico Energy, Minerals and Natural Resources and Environment departments to host a first-ever Brown to Green Workshop in Santa Fe, New Mexico to promote renewable energy projects on contaminated lands. Over 240 individuals attended the workshop. Region 6 is partnering with private, local, tribal, and federal entities to implement renewable energy projects for solar and wind energy on contaminated lands such as landfills, mine sites, Brownfields, and federal facilities.

**Background:** The EPA Office of Solid Waste and Emergency Response (OSWER) Center for Program Analysis (CPA) launched the “Re-Powering America’s Land: Renewable Energy on Contaminated Land and Mine Sites” program in September 2008. The purpose of the program is to seek opportunities to facilitate the reuse of current and formerly contaminated properties for clean and renewable energy generation. The RE-Powering America project is an opportunity to use clean energy on previously contaminated lands to drive economic activity, create jobs, and empower disadvantaged communities. By working closely with other federal agencies, state and local government, economic development officials, and the renewable energy industry, the project will use partnerships to assess, cleanup, and sustainably redevelop these sites for clean energy production or use. For several years, the OSWER CPA has also been working closely with regions to promote greener remediation practices within the various land based cleanup programs, including use of renewable energy.

**Significant Issues & Interested Parties:** Region 6 States are poised for production of renewable energy due to an abundance of solar, wind, geothermal, and biomass resources. As part of the agency’s RE-Powering America initiative,



EPA and DOE's National Renewable Energy Laboratory (NREL) have developed user-friendly, integrated maps showing renewable energy resources overlaid with EPA-tracked properties (Superfund, RCRA, Brownfields, abandoned mine lands, etc.). To launch this initiative, Region 6 partnered with New Mexico Energy, Minerals and Natural Resources (EMNRD) and Environment Departments to host a first-ever Brown to Green Workshop in Santa Fe to promote renewable energy projects on contaminated lands. The meeting brought together over 240 practitioners in the renewable energy and land revitalization fields from across the nation. This effort has resulted in additional partnering opportunities with NREL/DOE, Bureau of Land Management, solar and wind developers, academia, etc. For example, Region 6, EMNRD, and NREL are developing a "How To" guide for siting renewable energy projects on contaminated lands in New Mexico. With respect to greener cleanups, Region 6 co-leads the Green Remediation Subcommittee as part of the Technical Support Project Engineering Forum and has been partnering with numerous stakeholders regionally and nationally to further this initiative.

***Current Status & Next Steps:*** Region 6 is partnering with private, local, tribal, and federal entities to implement renewable energy projects such as solar/ wind on contaminated lands such as landfills, mine sites, Brownfields, RCRA corrective action, and Superfund sites. Examples of proposed renewable energy projects include: Holmes Rd. Landfill Solar Project, Houston, Texas - the City of Houston received Brownfields Sustainability Pilot assistance for a technical and regulatory analyses of a proposed solar power farm on a former landfill; Chevron Mine (formerly Molycorp), Questa, New Mexico - piloting a concentrating photovoltaic (PV) array on a former tailings pond to provide renewable energy for site operations and potentially the adjacent community; Santo Domingo Pueblo, New Mexico - NREL has committed to provide technical assistance to the tribe to conduct a feasibility study for renewable energy (solar) on a former industrial landfill; McKinley Mine, Gallup, New Mexico - EPA and Chevron are in discussions with the Navajo Nation regarding modification to site reclamation plans to accommodate renewable energy; Austin Energy Holly Power Plant – EPA's Brownfields Office recently committed to support the sustainable dismantling and redevelopment of the former power plant as a city park. The City is considering renewable energy as part of the sustainable redevelopment; Longhorn Army Ammunition Plant, Karnack, Texas – Office of Superfund Technology and Innovation is sponsoring a renewable energy feasibility study; and DOE's Pantex facility, near Borger, Texas – building wind energy capacity to power remediation of groundwater, run plant operations and provide energy to the power grid. In addition to solar energy production, EPA is working with closed landfill owners and operators to maximize the production of methane that can be used by nearby facilities (Mars Candy, Waco, Texas), or cleaned to transmission quality and placed into the natural gas pipeline network (Jefferson Davis Parish Landfill, Welsh, Louisiana).

Furthermore, beginning in December 2009, Region 6 will provide 1½ days of training to each of our State Environmental Agencies on renewable energy and

green remediation at their offices to allow for maximum participation by project managers across all cleanup programs. Also, EPA Regions 4, 6, and 9 are co-hosting a three-part green remediation webinar series during Fall 2009 based on the one-day workshop held at the National Association of Remedial Project Manager's (NARPM) annual conference held in Summer 2009.

**Continuity of Operations (COOP):** All Federal Agencies must maintain all necessary functions even when the building is down due to some unforeseen circumstance. The Continuity of Government program or Continuity of Operation program in Region 6 is run as a collaborative effort between the Management Division and Superfund Division. A key element is the establishment of "essential functions" or those activities that must continue in the event of local or national emergency, and must be capable of being done from a even if from a remote location. Region 6 has exercises and training annually to maintain readiness. Currently, the Continuity of Operations program is focusing on the H1N1 Flu and making preparation for the possibility of flexiplace for employees.

**Background:** The modern day Continuity of Operations program was established at the height of the cold war in the 1950's. Continuity of Operations has evolved from those earlier days of focusing on maintaining government operations after a nuclear attack to an all-hazards approach of maintaining government after a natural or man-made disaster. The most recent revisions of the United States' Continuity of Operations program were published in Homeland Security Presidential Directive – 20 and in the Federal Continuity Directive 1. These documents direct each Federal site to maintain focus on key areas of continuity including essential functions, plans, interoperable communications, delegation of authority, orders of succession, COOP site, human capital, testing, training, exercises, etc.

**Significant Issues & Interested Parties:** New COOP facility was recently completed and just become operational. Interested parties include all of internal as well as external customers that have interaction with the Region 6 office.

**Current Status & Next Steps:** Region 6's COOP plan was revised in 2007. The Region will be revising its plan this fall. Once the new COOP facility is complete, we will be conducting training and exercises in this facility as part of the Continuity program.

**Garland Creosoting Superfund Site:** The Garland Creosoting site is an abandoned creosote wood treating facility located on 12 acres in Longview, Texas. Waste generated during the wood treating process was placed in unlined surface impoundments. In 1999, EPA removed the immediate threat of above ground contamination sources. In September 2006, EPA issued the Record of Decision for excavation of contaminated soil and containment in an on-site. This site received American Recovery and Reinvestment Act funding.

**Background:** The Garland Creosoting Superfund site is an abandoned creosote wood treating facility located in Longview, Gregg County, Texas that was included on the National Priorities List on October 22, 1999. The site is located in a mixed residential and commercial neighborhood. Through a series of response actions beginning in 1999, EPA removed the contents of several above ground storage tanks, demolished and removed the tanks and other surface structures, and excavated and removed creosote contaminated soil and sludge from on-site ponds, impoundments, and the creosote process area. EPA also installed, and continues to operate, a ground water recovery and treatment system to prevent creosote from reaching a creek adjacent to the site. These actions were completed in 2003.

**The selected remedy for the site includes:** 1) the excavation of contaminated soil remaining on site and disposal of that soil in a containment cell onsite; 2) enhancement and continued operation of the ground water recovery and treatment system to address pure creosote in the ground water; 3) Monitored Natural Attenuation of dissolved ground water contaminants to allow natural biodegradation processes to remove reduce contaminant concentrations over time; and 4) the use of institutional controls to ensure restrict future land use to commercial purposes and restrict future use of the contaminated ground water. EPA recognized that restoration of the ground water to drinking water quality is not practical and, therefore, waived the goal of achieving the Federal drinking water as part of the remedy for the site.

**Significant Issues & Interested Parties:** The remedy for Garland Creosoting is not a complicated remedy. There are no issues associated with the remedy. Also, there has been no significant interest in the site shown by the public or the city of Longview. However, since the project has been awarded ARRA funds, there is significant interest within EPA.

**Current Status & Next Steps:** EPA is currently procuring a contractor to build the remedy for the site. Onsite construction is scheduled to begin in November 2009 and completion of the construction phase of the remedy is scheduled for August 2010.

**H1N1 Flu:** EPA is preparing for the possibility of 40% absenteeism with the new novel H1N1 flu strain. We developed policies to allow employees to work from home to care for other family members that might are sick, or to work from home a day or two after getting over the flu, etc. These policies are put in place to protect the Regional workforce and in particular, the sensitive populations within the Regional workforce. The Region has conducted flexiplace exercises with key staff in order to make sure those staff can successfully work from home. Exercises have focused on remote connectivity to the Regional Office and accessibility to key databases. Updates to the Region's pandemic flu plan have occurred based on last spring's outbreak. The Regional Office continues to monitor this emerging situation.

**Background:** The novel strain of the H1N1 flu emerged in April, 2009. Since this flu was identified, WHO (as of 9/14/09) has reported 277,607 laboratory-confirmed cases of the H1N1 and at least 3,205 deaths. There has been no significant change in the flu strain from the Spring's Northern Hemisphere outbreak to the Southern Hemisphere. There have been reported cases of the H1N1 flu that has been immune to Tamiflu. The H1N1 is likely to re-emerge in the Northern Hemisphere over the next few months.

**Significant Issues & Interested Parties:** The mechanism for limiting the spread of H1N1 is somewhat untested. Vaccinations of essential staff could become mandatory. Interested parties include all of internal as well as external customers that have interaction with the Region 6 office.

**Current Status & Next Steps:** All Divisions have identified essential personnel in a pandemic flu outbreak. However, the H1N1 flu has been classified as a relatively mild pandemic which has resulted in no activation of essential personnel. Should the H1N1 flu become more aggressive, then the Region will be looking at social distancing or possibly an evacuation order. H1N1 flu next steps will include the placement of anti-bacterial gels, possible hand wipes, and posters. The Region will also be undertaking an exercise for essential personnel to practice working from home for one day and continuation of monitoring the situation at the State and Federal level.

**Homeland Security:** EPA's role in Homeland Security evolves from programs such as Drinking Water, Removal/Emergency Response, etc. The Nation's Critical Infrastructure Protection program names various Federal Agencies/Departments responsible for key sectors like energy, drinking water, dam safety, and transportation. EPA has been named responsible for the protection of drinking water infrastructure. EPA also works with the Corp of Engineers during natural and man-made disasters to get the drinking water critical infrastructure operating as soon as possible. The Removal/Emergency Response program is responsible for clean-up after natural or man-made disasters. Clean-up revolves around collection and disposal of hazardous materials.

**Background:** In order to harden America's critical infrastructure and respond to emergencies, various directives and plans have been developed. These plans and directives have given EPA responsibilities in drinking water protection and in the clean-up of hazardous materials. With both natural and man-made disasters, EPA is on the forefront of assisting State and Locals in the clean-up of hazardous materials and in the assurance of the safety of drinking water.

**Significant Issues & Interested Parties:** Working with the states is essential. Some states are reluctant to have EPA/FEMA as partners. Interested parties include Federal partners, State, Local, and Tribal.

***Current Status & Next Steps:*** The Region continues to maintain a state of preparedness. Through exercises and training of staff at all levels of the Region, we are able to maintain this readiness. Region 6 recently sent employees to Incident Command and upper level training. With additional staff being trained in these areas, it results in the ability to improve rotations.

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## Water Quality Protection Division

**Underground Injection to Combat Climate Change:** Due to the prevalence of oil and gas production and the petrochemical industry in Region 6, the Region has the largest inventory of deep injection wells in the Nation. These wells are regulated under the Underground Injection Control (UIC) program of the Safe Drinking Water Act, and some are subject to the Land Disposal Restrictions of RCRA. Due to the level of activity and the complexity of issues we have faced, the Region has developed considerable specialized expertise and is recognized nationally as a regulatory and technical authority on deep injection wells. Over the last several years, there has been increasing emphasis on geologic sequestration as a technique for lowering CO<sub>2</sub> emissions and combating global warming. In 2004, EPA's UIC program established a national geologic sequestration workgroup, which explored various technical aspects unique to CO<sub>2</sub> injection. In 2007, the Agency formed a national rulemaking workgroup for carbon sequestration injection wells. With its unique expertise, the Region has played an active and influential role in the development of the national geologic sequestration program and is continuing to expand this expertise in preparation for the regulation of CO<sub>2</sub> sequestration wells.

**Background:** In 1974, Congress passed the Safe Drinking Water Act (SDWA). In 1980 EPA promulgated regulations which outlined these minimum federal requirements for the Underground Injection Control (UIC) program that were required by the SDWA. The SDWA also contained provision for States to apply for UIC primacy, and all five States in Region 6 have been delegated UIC primacy. Due to the large concentration of petroleum and petrochemical industries in Region 6, the Region has the largest UIC well inventories in the nation. This has led to the Regional development of National UIC program expertise that is frequently tapped by other Regions, States, and EPA Headquarters to provide technical assistance and input on UIC issues nationwide.

Recently, this expertise has resulted in Region 6 being influential in the development of the CO<sub>2</sub> geosequestration rule, which was proposed for public comment on July 25, 2008. This rule will facilitate the injection of large volumes of CO<sub>2</sub> into deep saline aquifers and isolate this CO<sub>2</sub> from the atmosphere. Climate change experts have indicated this underground sequestration of CO<sub>2</sub> will play an important role in the reduction of greenhouse gas releases and can help mitigate the potential climate change associated with increasing levels of these gasses in the atmosphere. Region 6 has more subsurface reservoir capacity for CO<sub>2</sub> sequestration than any other Region, as well as more than our share of CO<sub>2</sub> sources.

**Significant Issues & Interested Parties:** Injection of CO<sub>2</sub> for sequestration presents unique challenges because of the nature and mobility of CO<sub>2</sub>, the scale of operations which would be required, and public concerns. A range of

interested parties are involved and/or potentially impacted by geologic sequestration. Power generating utilities, oil and gas interests, environmental NPOs, universities, and the public have been vocal/active in actions to date. DOE looks to geosequestration (clean coal) as a means to continue utilization of the Nation's extensive coal reserves, and has provided research funding, including funding for small and large-scale pilot studies.

**Current Status & Next Steps:** EPA Administrator Jackson recently decided to publish a notice of data availability (NODA) for the CO<sub>2</sub> geosequestration UIC rule. Her decision was prompted by new data available from laboratory research and DOE pilot projects. This will allow the public an opportunity to review and comment on this new information. The Office of Management and Budget (OMB) finished their review of this NODA August 18th and it was signed by Peter Silva on August 24. The NODA will be published in the Federal Register soon. The goal for final rule promulgation is early 2011.

To maintain Region 6's UIC national expertise Miguel Flores, Water Quality Protection Division Director, made contract money available to provide CO<sub>2</sub> geosequestration training to the UIC staff of Region 6 and our States. Two courses will be taught by the Texas Bureau of Economic Geology (TXBEG) in the fall of 2009. TXBEG has developed international expertise in CO<sub>2</sub> geosequestration through their research and participation in pilot projects worldwide.

**Louisiana Coastal Land Loss:** The U.S. Geological Survey estimates the annual coastal wetland loss in Louisiana to be about 23 square miles per year, which constitutes about 90% of the annual coastal wetlands loss in the United States. This land loss will further expose the coastal population and oil and gas infrastructure to hurricane and flooding risks, along with drastically altering existing ecosystems in southern Louisiana. EPA is working with the State and other Federal Agencies to implement projects and strategies toward a sustainable coast. Planning estimates for large-scale efforts to retard loss and rebuild land and marsh are enormously expensive, on the order of \$15-20 billion. Management of levee systems, navigation, fisheries, and land use present competing priorities in use of Mississippi River water and sediment in coastal restoration.

**Background:** Louisiana wetlands are extremely valuable, as they provide numerous important functions including storm protection, floodwater retention, water quality maintenance, and fish and wildlife habitat, as well as providing aesthetic and eco-tourism values. However, as a result of natural coastal processes and human activities, coastal Louisiana has lost over 1.2 million acres (1,875 square miles) of wetlands since the 1930s. An expansive system of levees built for flood control, extraction of oil and gas and groundwater, and aggressive cutting of navigational channels into marsh are among the irreversible

actions that have starved the coastal area of rebuilding sediment, fostered salt water intrusion, and accelerated subsidence.

EPA and the State of Louisiana have been members of the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) multi-agency partnership since its inception in 1990. CWPPRA provides from \$50 million to \$80 million per year for important wetland restoration projects throughout the Louisiana coast, including: 1) reintroduction of river water into coastal wetlands and estuaries (river diversions), 2) restoration of barrier islands, and 3) use of external sediment sources for marsh creation and barrier island restoration. EPA is the Federal sponsor on 20 CWPPRA projects including; five projects that have been constructed, five in the construction phase, five in the engineering and design phase, and five that have been de-authorized.

Federal and State-sponsored river diversions are of particular importance in addressing coastal Louisiana wetland loss. These projects allow fresh water and associated sediments and nutrients to flow into nearby wetlands and degraded areas, mimicking natural land-building processes, slowing saltwater intrusion, and promoting the growth of new marsh. Furthermore, by diverting river water into coastal marshes, such projects can help reduce the nutrient load being delivered directly to the Gulf of Mexico, and consequently contributing toward the Gulf hypoxic zone.

Beyond CWPPRA, there are other State and Federal Programs that also address coastal wetland loss. The State of Louisiana has developed a State Master Plan as a planning document for its coastal restoration efforts. The Corps of Engineers has the lead on several larger projects under the Water Resources Development Act (WRDA) as part of the Louisiana Coastal Area (LCA) program.

***Significant Issues & Interested Parties:*** The need to protect and restore the coast requires management of a number of important issues. First, the stakeholders need to maximize usage of the resources available in the Mississippi River including the freshwater, sediments, and nutrients that it provides. Second, the current pace, scale, and funding of restoration is not sufficient to overcome the rate of land loss. A truly sustainable coast will require significant a resource investment estimated in the range of \$15 billion over time. Next, there are competing priorities that provide challenges for coastal restoration including navigation, land use, and flood control. There needs to be a well-planned and balanced approach to consider and benefit all of these interests. Societal expectations must be managed. Some impacts are irreversible, and a sustainable coast will not occupy the same footprint as pre-levee coastal Louisiana.

The State of Louisiana has organized its staff into a single State agency called the Office of Coastal Restoration and Protection (OCPR) in order to address coastal restoration and other the other priorities in a holistic fashion. There are a number of local and national environmental groups that have a significant interest in coastal restoration including, the Environmental Defense Fund and the Gulf



Restoration Network. Lastly, the residents in coastal Louisiana, including New Orleans, believe that the wetlands provide a buffer against storm surges.

***Current Status & Next Steps:*** EPA will continue its efforts under the CWPPRA program by designing and building projects in coordination with the State, NMFS, USACE, NRCS, and FWS. EPA will also cooperate, as appropriate, in the coastal restoration efforts under the other State and Federal programs. EPA will continue to promote the most sustainable coastal restoration strategies particularly with regard to maximizing use of the Mississippi River resources.

### **Louisiana Coastal Segments, Hypoxia, and the Louisiana**

**Section 303(d) List:** Historically, the State of Louisiana has not identified hypoxia, or low dissolved oxygen, in the bottom layers of their coastal waters as a condition that impaired them for support of fish and shell fish. Environmental groups have challenged the state's conclusion and petitioned to include these areas on their list of impaired waters. EPA Region 6 must review this issue and either approve or disapprove the State list. Placing Louisiana coastal waters in an impaired category will trigger Total Maximum Daily Load (TMDL) development to curb the discharge of nutrients that are depressing oxygen in the waters of the Gulf of Mexico. This is of national significance in that this will ultimately affect the other 30 States that contribute nutrients to the Mississippi River and then to the Gulf.

***Background:*** The effects of excessive nutrient loads from the Mississippi and Atchafalaya Rivers are manifested in Gulf of Mexico waters off the Louisiana coast by low dissolved oxygen concentrations (or hypoxia) in bottom waters. Natural stratification, resulting from differences in surface and bottom water salinity, inhibits mixing and contributes to the potential for hypoxia under normal summer conditions, except when hurricanes pass through the Gulf. At times, dissolved oxygen concentrations in bottom waters are too low to support some forms of marine life. In 2008, the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force, chaired by EPA, released the Gulf Hypoxia Action Plan 2008. The plan describes voluntary measures to be taken to reduce nutrient loadings to the Gulf.

Clean Water Act section 305(b) requires States to submit a report describing the quality of all waters on April 1 of every even numbered year. Section 303(d) of the Act requires that States periodically update and submit a list of impaired waters that become subject to the regulatory framework of the Clean Water Act, upon EPA approval.

***Significant Issues & Interested Parties:*** The State of Louisiana water quality standards specify that a minimum dissolved oxygen criterion of 5 mg/L is applicable to the coastal segments; however, the standards are not specific about where in the water column the criterion applies. Historically, the Louisiana

Department of Environmental Quality (LDEQ) has not identified hypoxia in coastal segments as a water quality problem, because they monitor only the well-oxygenated surface layer. However, data collected by the Louisiana Universities Marine Consortium (LUMCON) and EPA have confirmed that hypoxia occurs with some regularity within State waters.

The Gulf Restoration Network (GRN), Louisiana Environmental Action Network (LEAN) and Tulane Law Clinic have recently focused their attention on the issue of hypoxia in the Gulf and have challenged the State's previous findings, based on LUMCON and EPA data. The groups requested that the two coastal segments be added to the Louisiana section 303(d) list. LDEQ received over 400 comments from these organizations, private citizens and academic institutions in support of adding the coastal segments to the 2008 Section 303(d) list.

LDEQ has now acknowledged that the applicable standards are not being attained; however, the State declined to include the segments on the section 303(d) list, asserting that voluntary corrective actions outlined in the Hypoxia Action Plan negated the need for including the segments on the section 303(d) list. Applicable EPA regulations do not require listing where other pollution control requirements are adequate to implement water quality standards.

***Current Status & Next Steps:*** The State of Louisiana submitted their 2008 Clean Water Act section 305(b) report and 303(d) list to EPA on August 25, 2009. Section 303(d) of the Act requires EPA to review and either approve or disapprove the 303(d) list within 30 days.

The addition of the two coastal segments to the 303(d) list would trigger the development of a Total Maximum Daily Load (TMDL) for nutrients coming from the Mississippi and Atchafalaya River watersheds. Approximately 2% of the nutrient load implicated in causing hypoxia comes from Louisiana. Addressing the remainder of the nutrient load may necessitate development of a nutrient budget or a TMDL for the remainder of the Mississippi Drainage Basin, a 30-state area.

**Oklahoma Drinking Water Primacy Obligations:** Faced with the requirement to adopt sixteen new drinking water regulations following the 1996 amendments to the Safe Drinking Water Act (SDWA), and receiving little increase in federal grant funds to implement these new regulations, Region 6 State drinking water programs are having to prioritize where to invest limited resources. State resource limitations are not only impacting state implementation, but are also impacting local and federal implementation of drinking water regulatory requirements. State-supported technical assistance and training provided to public water systems has been limited, and the EPA Region 6 Drinking Water Section has had to augment state training and implementation of new drinking water regulations. In particular, Region 6 has had to assume full training, implementation, and enforcement of the Stage 2 Disinfection By-Products Rule (Stage 2) and Long-Term 2 Enhanced Surface Water Treatment Rule (LT2) in Oklahoma, due to resource shortfalls in this state.

**Background:** Since the Safe Drinking Water Act (SDWA) was amended in 1996, sixteen new drinking water regulations have been promulgated. As a condition of maintaining primary enforcement responsibility (primacy) for the Public Water System Supervision (PWSS) program, state primacy agencies must adopt and implement new drinking water regulations. Over this same time period, federal resources to adopt and implement new drinking water regulations have not increased significantly. As such, the Drinking Water Section helps Region 6 States prioritize where to invest limited state resources, and helps supplement state PWSS implementation via training, technical assistance, and direct implementation from Dallas.

The Oklahoma Department of Environmental Quality (ODEQ) has chosen to prioritize resource allocation toward existing drinking water regulations, and has chosen since early 2006 to not adopt or implement any new drinking water regulations until state resources are increased sufficiently. Since ODEQ is not implementing early monitoring requirements of Stage 2 or LT2 regulations, Region 6 has assumed direct implementation responsibility for these regulations in Oklahoma.

The Stage 2 and LT2 rules take a risk-based approach to establishing regulatory requirements for water systems subject to these regulations, requiring extensive early monitoring for disinfection byproducts (trihalomethanes and halo-acetic acids) under Stage 2, and for *Cryptosporidium* under LT2. Stage 2 impacts over 1,200 public water systems in Oklahoma and LT2 impacts over 200 public water systems in Oklahoma using surface water as their source.

**Significant Issues & Interested Parties:** Because Oklahoma public water systems are not used to dealing with EPA and because EPA Region 6 staff cannot easily travel to Oklahoma to provide training and technical assistance, Oklahoma public water systems have experienced greater difficulty in complying with new drinking water regulatory requirements of the Stage 2 and LT2 rules.

While the ODEQ drinking water program received a fee increase last year, providing additional resources, they did not receive an increase to their FTE ceiling, and consequently cannot hire additional staff necessary to implement new drinking water regulatory requirements. ODEQ could likely shift resources from other environmental programs, or could prioritize implementation of new drinking water regulatory requirements over older, more mature, regulatory requirements. Instead, they have chosen to not adopt or implement any new drinking water regulations until they receive sufficient new resources (staff) to implement new regulatory requirements. Such a stance threatens primacy for the PWSS program and could result in the loss of millions of dollars from the drinking water state revolving loan fund (DWSRF) program.

**Current Status & Next Steps:** To date, over 1,200 sample plans and waivers have been reviewed, and over 2,000 letters have been sent to Oklahoma public water systems. Region 6 is expending approximately 5 FTE, spread over about 12 staff, in implementing Stage 2 and LT2 in Oklahoma. This has impacted tribal

drinking water program implementation, state PWSS oversight, data management, and Area Wide Optimization Program implementation. To be more effective in implementing Stage 2 DBPR and LT2 requirements, Region 6 has established electronic laboratory reporting direct from laboratories to the SDWIS-State database. This has allowed automated compliance determination capabilities, reducing data entry, improving data quality, and facilitating more rapid compliance determinations.

While Region 6 has become proficient in implementing Stage 2 and LT2 requirements in Oklahoma, Ground Water Rule implementation, beginning December 2009, will place significant burden on the Region 6 Drinking Water Section. Region 6 will meet with ODEQ to establish a workload agreement for Ground Water Rule implementation. If ODEQ will not assume a significant role in implementing Ground Water Rule requirements, Region 6 will have to explore primacy implications.

### **Texas Colonia Wastewater Treatment Assistance Program Unliquidated (unspent) Obligation Balance and Potential**

**Rescission:** Between 1993 and 1998, the EPA provided federal funding for wastewater treatment works for economically distressed areas, commonly known as Colonias, located in the United States within 62.5 miles (100 kilometers) of the Mexico border. This funding provided funding to eligible communities for water and wastewater infrastructure in Texas totaling \$300 million in Federal funding. The Colonia Wastewater Treatment Assistance Program (CWTAP) was awarded to the Texas Water Development Board (TWDB) in 5 separate assistance agreements. Currently 3 of these agreements remain open with an unliquidated obligation balance of \$40 million supporting 10 projects in construction phase. Budget discussions for Fiscal Year 2010 have identified unliquidated obligations for rescission, including the remaining \$40 million in CWTAP funds.

**Background:** Between 1993 and 1998, the EPA provided federal funding for wastewater treatment works for economically distressed areas, commonly known as Colonias, located in the United States within 62.5 miles (100 kilometers) of the Mexico border. This funding provided funding to eligible communities for water and wastewater infrastructure in Texas totaling \$300 million in Federal funding. The Colonia Wastewater Treatment Assistance Program (CWTAP) was awarded to the Texas Water Development Board (TWDB) in 5 separate assistance agreements.

In August 2005 all of the \$300 million, including the \$93.5 million in unliquidated obligations, had been contracted by the Texas Water Development Board (TWDB) to infrastructure projects. However, in January 2006, a project for La Joya Water Supply Corporation with a commitment of \$38.5 million in CWTAP funding was terminated following a Texas Attorney General investigation. Those funds were de-committed awaiting recommitment to projects that were either under construction or in the final design phase.

Two of the original assistance agreements completed disbursements and were subsequently closed with the 3 remaining assistance agreements remaining open. The 3 agreements remain open with an unliquidated obligation balance of \$40 million have commitments to 10 projects in construction phase with expected project completions in the 2nd quarter FY10.

As of today 33 projects have completed construction and/or are pending final financial close out. These 33 projects have benefitted 95,000 Texas residents by providing them with adequate wastewater treatment and drinking water facilities. An additional 55,000 residents will benefit once the remaining 10 projects are completed in 2010.

**Significant Issues & Interested Parties:** FY2010 budget discussions and congressional briefings by the Office of Inspector General have identified the CWTAP ULO as a potential source for rescission. The \$40 million in CWTAP remaining balance will have a direct impact in the completion of 10 projects pending completion in 2nd quarter FY10. In addition to having significant Congressional interest from 5 Congressional Districts in the U.S. House of Representatives: Silvestre Reyes (El Paso project), Solomon Ortiz (Brownsville project), Henry Cuellar (Laredo project), Ruben Hinojosa, Ciro Rodriguez and 2 U.S. Senators: Kay Bailey Hutchison and John Cornyn. In addition, this rescission will likely impact funding from other funding agencies required to complete the projects.

**Current Status & Next Steps:** EPA Region 6 is working with the Texas Water Development Board to complete the remaining 10 projects within the proposed schedule in the 2nd quarter FY10. In addition, the TWDB and State of Texas Secretary of State continue to work with project sponsors to eliminate potential delays and address in a timely manner potential negative issues. Significant progress is being made to reduce the CWTAP ULO to the current balance of \$40 million and provide necessary and adequate wastewater treatment and drinking water to Texas colonia residents.

### **EPA Region 6's Implementation of the Green Project Reserve**

**Under ARRA:** The 20% GPR requirement under ARRA has required an unprecedented level of Regional oversight to ensure success. Not only does Region 6 have to approve all projects being designated as green by the States, but we have to ensure that the States had an active and well documented solicitation for green projects, that the projects were selected through a defensible ranking process, and that the public had an opportunity to comment on those projects selected. Region 6 has taken extraordinary steps to ensure consistency on a regional and national level and those efforts were recently highlighted by EPA Headquarters.

**Background:** The American Recovery and Reinvestment Act (ARRA) of 2009, which infused \$6 Billion into the State Revolving Fund (SRF) Programs, had four

requirements that are not normally associated with the SRF. One of those requirements was that, to the extent that there are sufficient eligible project applications, not less than 20 percent of the funds shall be for projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities. EPA Administrator Lisa Jackson has communicated that fulfilling this 20% “green project reserve” (GPR) requirement is one of her top three priorities in implementing the ARRA.

**Significant Issues & Interested Parties:** From the passage of ARRA, Region 6 anticipated that one of the primary challenges with GPR implementation would be consistency – both regional and national. EPA Headquarters provided some guidance as to what type of projects would “categorically” fall under each of the four categories of green projects. The guidance also described a “business case” requirement for those projects that were not categorically green, but could fall under one or more GPR categories if sufficient documentation were provided (e.g., a leaky water main replacement as a water efficiency project). The green determinations for individual ARRA-funded infrastructure projects were delegated to the EPA Regions.

Because Region 6 had the obligation to review all projects designated as green, we established a systematic, transparent, and defensible review process. The Region has a “Green Coordinator” and “Chief Green Engineer” who serve as the points of contact for all States and loan applicants who are involved with potential green projects. The Green Coordinator and Chief Green Engineer have held conference calls with State staff, procured contractor assistance for some State Agencies, and worked with individual project engineers to educate everyone on the criteria of GPR projects. Additionally, the Region has convened an interdivisional “Green Panel” to review the business cases that are submitted for green projects. The Green Panel is comprised of subject matter experts in the following areas: the State Revolving Funds, Water and Wastewater Engineering, Water Efficiency, Energy Efficiency, Non-Point Sources, Stormwater, and Sustainable Infrastructure.

Once the Region had established its own GPR project review system to ensure regional consistency, we directed our focus to the problem of national consistency. No mechanism existed for sharing information between regions and the very real possibility existed that a business case that was approved in one region would be rejected in another. With the intention of ameliorating that problem, the Green Coordinator in Region 6 convened a Regional Green Workgroup that consisted of interested parties from EPA Headquarters and all ten regions. The Workgroup participates in biweekly conference calls and have an email group in which the regions share approved business cases, contentious issues, and other hot topics.

**Current Status & Next Steps:** Region 6 has reviewed 300 project descriptions and 35 business cases so far and expects to review 35 more business cases by October 1, 2009. The draft 2010 appropriations bills in the House and Senate include language with a similar GPR requirement. EPA Headquarters has

expressed interest in continuing the Regional Green Workgroup to produce a GPR guidance document for future appropriations years.

**Illinois River Watershed Strategy:** EPA Region 6 is developing a comprehensive multijurisdictional strategy for the Illinois River watershed in the States of Arkansas and Oklahoma. Both States have been involved for many years in a complex debate over nutrient impairments and water quality conditions of the river crossing into Oklahoma through Arkansas. A key component of the strategy is a model that will determine what reductions in phosphorus loads are needed to meet water quality standards. This watershed model will serve as a tool upon which sound technical decisions on appropriate point and nonpoint source controls can be confidently based. Ultimately, this tool can lead to the development of a basin wide water quality restoration plan.

**Background:** Arkansas and Oklahoma are involved in a decade-long dispute over water quality conditions in rivers crossing into Oklahoma from Arkansas. Several of these rivers, including the Illinois River, have been designated by Oklahoma as Scenic Rivers. The Illinois River is a multi-jurisdictional tributary of the Arkansas River, approximately 100 mi (160 km) long, between the States of Arkansas and Oklahoma.

A large concentration of poultry producers is located within this watershed in Northwest Arkansas. The Illinois River is impaired in Oklahoma due to phosphorus (P), and to restore the River's designated uses, in 2002 Oklahoma established a P water quality criterion of 0.037 mg/l with a 10-year compliance schedule for implementation by June 30, 2012. In 2003, facilitated by EPA Region 6, Oklahoma and Arkansas signed an agreement titled "Statement of Joint Principles and Actions," that stipulates permit limits of 1.0 mg/l P for specified dischargers in the Arkansas Illinois River Basin as an interim step to meet Oklahoma standards through June 2012.

As the permits for existing dischargers with limits as stipulated in the Statement of Joint Principles are up for reissuance and the June 2012 date for compliance schedule to meet the Oklahoma phosphorus standard approaches, a comprehensive strategy is needed to address nutrient impairments in the watershed in both States.

**Significant Issues & Interested Parties:** The States of Arkansas and Oklahoma and the municipal wastewater treatment plants in the watershed will be very interested in the results of the modeling initiative. In the past, there has been significant congressional interest in the nutrients limits imposed on the Arkansas waste water treatment plants.

**Current Status & Next Steps:** EPA Region 6 has committed resources to develop a scientifically robust model of the Illinois River watershed. The model will be developed with active participation of Arkansas and Oklahoma. EPA expects the watershed model will be completed within 24 months. The results of

this watershed model may be used to develop a multi-jurisdictional total maximum daily load (TMDL) for phosphorus in the identified portions of the Illinois River watershed. The modeling effort will effectively identify nutrient reductions needed and serve as a tool to guide appropriate point and non-point controls needed to meet water quality standards. A scoping meeting with EPA, the modeling contractor and representatives of both States will take place in October 2009 to discuss technical details.

### **U.S.-Mexico Border Infrastructure Program Accomplishments and Funding Needs:**

Since 1994, Congress has appropriated approximately \$973 million for water infrastructure projects in the U.S.-Mexico Border Region. Of this amount, the U.S.-Mexico Border Water Infrastructure Program has awarded approximately \$635 million to the Border Environment Infrastructure Fund (BEIF) at the North American Development Bank (NADB) for construction of high-priority drinking water and wastewater infrastructure projects. During this time period, the Border Water Infrastructure Program completed 28,914 drinking water service connections and 171,960 wastewater service connections, which prevent the direct discharge of millions of gallons of untreated sewage into the Rio Grande River. The needs along the U.S.-Mexico Border have far outpaced the funding appropriations. During the program's most recent FY 09/10 prioritization process, Region 6 received over 145 water and wastewater project applications totaling over \$893.3 million in construction costs. These projects would require BEIF funding of approximately \$250 million. Of these, there were 54 highest priority projects identified having a total cost of \$385.2 million, which would require a BEIF investment of \$161 million by FY 2012. Because of current appropriations range between \$10 and \$20 million, only 17 projects have been selected for planning and design funding during FY 09 – FY 10. The estimated construction cost for these 17 projects is \$114 million and an estimated BEIF contribution of \$61.6 million from the FY 09 through FY 12 appropriations.

**Background:** The United States and Mexico share more than 2,000 miles of common border. More than 14.6 million people live in the border area, mostly in fifteen "sister city pairs." The rapid increase in population and industrialization in the border cities has overwhelmed existing wastewater treatment and drinking water supply facilities. In Region 6, untreated sewage pollutes urban waters that flow north into the Rio Grande. EPA works closely with program partners to evaluate public health and environmental needs and to provide grant funding for the planning, design, and construction of high priority water and wastewater treatment facilities along the border.

Recognizing the disparity between the water infrastructure needs of the Border region and the limited grant funds available, EPA Region 6 and the BECC, in coordination with appropriate agency stakeholders including the NADB, have created a process to prioritize projects for funding. The objective of the prioritization process is to ascertain which drinking water and wastewater



projects will address the most severe public health and environmental conditions identified in communities along the border. Therefore, the methodology for prioritization assigns first priority to projects that address the most urgent public health needs.

Since 1994, Congress has appropriated approximately \$973 million for water infrastructure projects in the Border Region. Of this amount, the U.S.-Mexico Border Water Infrastructure Program has awarded approximately \$635 million to the Border Environment Infrastructure Fund (BEIF) at the North American Development Bank (NADB) for construction of high-priority drinking water and wastewater infrastructure projects. As of June 2009, the program has completed 44 of the 78 projects funded to date, providing first-time or improved drinking water or sewer service to 4 million people.

To ensure responsible fiscal management of BEIF funds, the Agency has implemented project management enhancements in 2005. These enhancements focus on minimizing unliquidated BEIF balances at the NADB, while also improving project completion rates to ensure the timely delivery of drinking water and wastewater infrastructure to communities along the border. Further, EPA finalized a fiscal policy in FY 2007 which provides clear direction for expediting completion of older projects and disbursement of funds. These reforms have led to considerable improvements in the program's unliquidated balances and project completion rates. The program has reduced the BEIF balance by more than 50%, from approximately \$300 million in 2007 to \$137 million in August 2009 and completed 17 projects.

***Significant Issues & Interested Parties:*** With the \$10 million requested for the U.S.-Mexico Border for FY 2010 and \$10 million for FY2011, Region 6 will receive \$6 million each year and award \$4 million to NADB and \$2 million to the BECC Project Development Assistance Program (PDAP) for planning and design of new projects, with the purpose of continuing to build and thus maintain a portfolio of projects that are ready for construction. Final decisions on use of FY2010 and FY2011 funding will be based on balancing the construction readiness of fully designed projects with the planning and design needs of prioritized projects. In FY2011, Region 6 expects to have 12 construction-ready projects with approximate BEIF need of \$30 million.

The U.S.-Mexico Border program has significant Congressional interest from 5 Texas Congressional Districts in the U.S. House of Representatives: Silvestre Reyes (El Paso project), Solomon Ortiz (Brownsville project), Henry Cuellar (Laredo project), Ruben Hinojosa, Ciro Rodriguez and 2 Texas U.S. Senators: Kay Bailey Hutchison and John Cornyn, as well as 1 New Mexico Congressional District in the U.S. House of Representatives: Harry Teague and 2 New Mexico U.S. Senators: Jeff Bingaman and Tom Udall.

***Current Status & Next Steps:*** In FY2011, the US-Mexico Border Water Infrastructure Program will continue to fund high priority water and wastewater infrastructure projects that have been evaluated then ranked using a risk-based

prioritization system that considers the needs of at-risk communities and enables the program to direct BEIF funding to projects that demonstrate high human health benefits, cost-effectiveness, institutional efficiency and sustainability. Also, in FY11, EPA will have fully transitioned to a new grants-award process that separates the award of planning and design funds from the award of construction funds. The goal of the new awards process is more expeditious use of program funding. In response to Congressional direction, EPA awarded FY09 funds consistent with the new grants-award process by funding 27 projects for planning and design.

The U.S.-Mexico Border Water Infrastructure Program will continue to work with the ten border States (four U.S. and six Mexican) and local communities to improve the region's water quality, and public health. The U.S. and Mexican governments will collaborate on water infrastructure projects to reduce health risks to residents including sensitive populations of children and elders who may currently lack access to safe drinking water and sanitation. Additionally, by providing homes access to basic sanitation, EPA and its partners will reduce the discharge of untreated wastewater into surface and ground water.

**Whole Effluent Toxicity (WET) Program Implementation:** WET is a biological test method to assess the potential for a wastewater discharge to cause significant impacts to the survival, growth and/or reproductive ability of aquatic organisms in streams receiving wastewater. WET testing is performed on test species using EPA testing methods promulgated into regulations. Two Region 6 States, Texas and Oklahoma, continue to resist EPA efforts to revise their wastewater discharge permitting programs to fully implement their State water quality standards and federal regulations promulgated in 1989. The two primary requirements are to 1) develop a process to determine whether permit limits are required for WET and 2) to insure that aquatic life was protected against both lethal and sub-lethal effects, protection explicitly defined and established in both State's water quality standards. Although EPA has worked closely with TCEQ and ODEQ in making these revisions, neither State has either submitted or committed to submit approvable revisions to their permitting practices. According to EPA HQ, over 38 States are already fully compliant with the regulations and only one other State (Colorado, Region 8) has not committed to full implementation by the end of 2010.

**Background:** EPA's National Pollutant Discharge Elimination System (NPDES) program is the primary mechanism in the Clean Water Act for regulating the discharge of pollutants to America's waterways. Under the NPDES program, a permit is required from EPA or an authorized State for the discharge of any pollutant from a point source into the waters of the U.S. WET is an integral component of most major wastewater discharge permits. Permittees contract with labs to expose test organisms to predetermined concentrations of

wastewater combined with non-toxic water to determine if the discharged effluent is likely to exert significant toxic effects to aquatic life in the stream receiving the discharge. The organisms and WET test methods used are promulgated in federal regulations, as are requirements to include permit limits on WET if the effluent is deemed likely to cause toxic effects in the stream. Further, EPA is prohibited from issuing permits which do not comply with the Clean Water Act or the State water quality standards.

In 2004, EPA HQ identified the Region 6 WET permitting practices as serious weaknesses in its NPDES program. In December 2004 EPA Region 6 committed to HQ that it would work with its States to begin issuing wastewater discharges permits in full compliance with the 1989 federal regulations pertaining to WET. This required Region 6 and the States to revise their permitting practices, which were in conflict with the applicable federal regulations and State water quality standards for the protection of aquatic life. Region 6 notified its States in February, 2005, and began to provide training and technical assistance to its States to come into compliance by January, 2007. When none of the States met that date, Region 6 extended the deadline to June, 2008. By that date New Mexico, Arkansas and Louisiana had developed the necessary documentation for permitting revisions. A number of permits developed under the revisions have been issued in each of those States.

***Significant Issues & Interested Parties:*** Region 6 progress with both States is being followed closely by HQ and a number of States. Permittees are applying pressure on TCEQ not to make any substantial changes to the current implementation procedures. Texas has submitted several iterations of draft permitting practice revisions; however the most recent proposals are less stringent than the current practices and not acceptable.

While recently conceding that its water quality standards do require protection against sub-lethal effects, Oklahoma rejects EPA's approach to determining whether permit limits are required for WET. ODEQ believes that limits are only required where there have been multiple WET test failures, and for sub-lethal effects, the test failures must also be demonstrated in consecutive tests. The EPA HQ position is that a single WET test failure is a demonstration that the effluent has actually already exceeded the State water quality standard and criterion for aquatic life protection and a permit limit on WET is required by both EPA regulations and the State water quality standards.

***Current Status & Next Steps:*** Texas - EPA has reviewed approximately 150 NPDES permits submitted by TCEQ since June, 2008. TCEQ has not performed an analysis to determine the need for WET limits on any permits and has not included WET limits in any permit based on sub-lethal effects. EPA has notified TCEQ that approximately 25 of those permits cannot be issued without revisions. TCEQ has withdrawn almost all of the affected permits. TCEQ will submit its NPDES program revision recommendations to its Commissioners in November. EPA has apprised TCEQ on several occasions that the WET program revisions are currently inadequate.

Oklahoma – Similar to Texas, none of the permits submitted by ODEQ since June 2008 contain an acceptable analysis to determine whether WET limits are necessary. ODEQ recently submitted its first permit with WET limits based on sub-lethal effects however the State still has not developed an acceptable approach to determine when WET limits are required. Oklahoma has not indicated plans to make any further revisions to its WET requirements.

As its interim procedure, EPA continues to review and object to permits where two or more test failures have occurred. Region 6 recently finalized a permit for the San Jacinto River Authority in Texas, a permit we had “federalized” after TCEQ issued a permit without WET limits over EPA’s objection, even though the applicant had numerous toxicity test failures.

**United Nations Global Environment Facility for Rio Grande:** The UN GEF Project, with a focus on sustainable use of the Rio Grande, will be conducted collaboratively by the US EPA, SEMARNAT and other relevant state, national and international agencies and organizations in both countries. It will identify constraints to its sustainable use, their root causes, and facilitate development and implementation of practical activities and programs to address these constraints, within the context of a holistic, integrated framework for action. The framework includes the following: securing involvement of all major basin stakeholders; assessing critical water needs, flows and uses; identifying and analyzing significant diagnostic analysis; developing a strategic action program (SAP) to address constraints to its sustainable use; and monitoring long-term results of the SAP.

**Background:** The Rio Grande and its basin, although located in one of the most arid regions in North America, nevertheless constitute one of the fastest-growing regions in Mexico and the USA, in terms of both population growth and economic development. The latter is due in large part to the enhanced economic activity associated with NAFTA. Portions of the basin also are regions of significant agricultural production in both countries. Further, the basin’s natural heritage is being home to an amazing biodiversity. Unfortunately, the Rio Grande also is a river in serious disarray. Over-allocated throughout its basin, the river and its resources are not being used in an equitable or sustainable manner in either country. Thus, the ability of the river to support human physical, social and economic needs, while also maintaining important ecosystems, is greatest sources of stress between the United State and Mexico. The situation is now so critical that it has been identified among the 10 most endangered rivers in the world by both the World Wide Fund for Nature (WWF) and American River, a national conservation group.

A major contributory factor is that the Rio Grande is being managed in an uncoordinated piecemeal manner throughout its basin, resulting in fragmentation of authority and responsibility among the myriad of state, national and international agencies. Further, although many studies have been conducted in its basin on various aspects of water use, they are uncoordinated and their

results reside in a variety of sources, and data sharing is difficult at best. Thus, in view of the socioeconomic importance of this transboundary river to countries, development and implementation of a comprehensive, integrated management approach is essential to address the serious human and environmental problems confronting it throughout its basin.

There are a number of ongoing programs in the basin that address certain aspects of basin management. The joint EPA/SEMARNAT- administered Border 2012 Program, for example, is a binational collaboration to improve environmental conditions and human health of the nearly 12 million people living along the common US-Mexico border. This includes provisions of safe drinking water to basin inhabitants, and other measures to address environmental degradation. The binational Border Environment Cooperation Commission (BECC) was established to preserve, protect and enhance human and environmental health along the border, including strengthening cooperation among interested parties and supporting sustainable projects, in close coordination with the North American Development Bank. The multi-year Sustainable Agricultural Water Conservation (SAWC) project being conducted by the Texas State University System was designed specifically to contribute to the needed elements of an integrated management framework for the sustainable use of this important transboundary river, for meeting both human and environmental needs. The Rio Grande is also a recognized American Heritage River Initiative (AHRI) designee by US border communities under a Presidential Executive Order.

***Significant Issues & Interested Parties:*** The US/Mexico border remains to be a major Ecosystem and a priority in regards to providing assistance to those border communities issues on health and the protecting the environment. The Border 2012 program continues to demonstrate the collaborative partnership on both sides in resolving and building infrastructure needed with those States on both sides for Region 6. The stakeholder process which is basic function of Border 2012 provides an on-going relationship with all stakeholders invested in improving the health and environment of the Rio Grande. The UN GEF activities will continue to utilize the existing infrastructure of Border 2012 as it progresses forward. A meeting held in December 2006 established a baseline listing of parties interested in the UN activities being initiated by the Texas State University (TSU) and UNAM.

***Current Status & Next Steps:*** The proposal for receiving the 4M allocated by the UN is due on September 15, 2009 for review and notation of any revisions necessary for completion for the UN GEF Secretariat to formally accept or deny approval of the full package for using the allocated funds in the next four years. EPA has been instrumental from the beginning of the concept in submitting a project proposal to the UN for consideration. Original idea was developed in

2003/2004 by a number of interested persons who included the academic staff from TSU and UNAM.

If the project proposals are accepted by the UN GEF for funding, EPA will be instrumental in partnering with SERMANAT in investing funds as well as man power to pilot projects identified in the package to the UN. All parties should be informed by March 2010 of a decision of accepting or denying the proposal.

## **Controlling Impacts of Stormwater Discharges:**

**Summary Abstract:** Stormwater pollution from point sources and nonpoint sources is one of our nation's most challenging water quality problems and is a significant contributor to the impairment of the country's streams, rivers, and watersheds. Unlike pollution from industry or sewage treatment facilities, which is caused by a discrete number of specific sources, stormwater pollution derives from a very large number and variety of sources. Rainwater and snowmelt run off lawns, parking lots, streets, farms, and construction and industrial sites. It picks up fertilizers, soil and sediments, pesticides, oil and grease, heavy metals and many other pollutants on the way to our rivers, lakes, and coastal waters. The impermeable surfaces of our traditional urban and suburban landscapes also result in increased stormwater volume and rates. In support of EPA's national priorities on wet weather discharges and protection and restoration of urban waters, Region 6 is working with our State partners to improve the effectiveness of municipal, industrial, and construction stormwater permits in controlling impacts stormwater discharges have on the chemical, physical, and biological health of our Nation's waters. Green Infrastructure/Low Impact Development techniques will need to be an important component if we are to more effectively manage stormwater impacts.

**Background:** In 1972, Congress passed what is commonly known as the Clean Water Act (CWA) and established the National Pollutant Discharge Elimination System (NPDES) to regulate the point source discharge of pollutants to waters of the United States. In 1987 Congress, in response to growing evidence on the impact of pollutants in storm water runoff, added CWA §402(p) to the NPDES program. In 1990, EPA issued Phase I NPDES stormwater permit regulations covering stormwater discharges from larger (population 100,000+) Municipal Separate Storm Sewer Systems (MS4s), industrial activity, and construction activity disturbing 5+ acres. Phase II regulations followed in 1999, and added smaller MS4s in Census-designated Urbanized Areas and construction disturbing 1-5 acres. "Uncontaminated" oil and gas exploration and production stormwater is exempt, as are non-point source discharges such as agriculture.

**Significant Issues and Interested Parties:** Stormwater discharges are highly variable in quantity and quality. To date, permits have focused largely on pollution prevention-type controls (Stormwater Management Programs for municipalities and Stormwater Pollution Prevention Plans for industry and construction). The thousands of industrial and temporary construction storm water discharges are almost exclusively covered with general permits. The

National Research Council Study: Reducing Stormwater Discharge Contributions to Water Pollution highlighted weaknesses in the current storm water program and made suggestions on how it should be improved. EPA is still working on responses to the report, but industry, construction, municipalities, and environmental groups are all interested in the direction of the stormwater program, with permittees generally concerned about resources and costs, while environmental groups generally feel the permits do not do enough to protect water quality.

***Current Status & Next Steps:*** Nationally, EPA is on a Court-ordered deadline to promulgate national Effluent Limitation Guidelines (ELGs) for construction and development by early December 2009. There is also a growing interest within the Agency and environmental groups for a follow-up regulation addressing post-construction stormwater standards that would help with environmental degradation due to urbanization. Review of the stormwater program, driven by the NRC report and an Agency commitment to do so by 2012, is likely to result in changes to the program over the next few years.

Region 6 plans to move forward, in cooperation with national efforts, to improve storm water permits and make them both more effective and less subjective. Water quality protection and compliance with Total Maximum Daily Loads (TMDLs) for impaired waters are a high priority, with use of Green Infrastructure/Low Impact Development techniques as a tool strongly encouraged for the multiple benefits beyond simple pollutant reduction they offer. Region 6 will also be active in the national efforts to improve the NPDES stormwater program as a whole.